

# **Report of the Special (Constitution Review) Committee**

22 March 2006

Members:

- Councillor Brian Salinger (Chairman)  
Councillor Mike Freer (Vice – Chairman)

Councillors:

* Jack Cohen	* Alison Moore
Danish Chopra	* Joan Scannell
Daniel Hope	* Alan Schneiderman

\* denotes Member present

Councillor Danish Chopra submitted apologies for absence due to a work commitment

Councillor Hope also submitted apologies for absence

## **Constitution Review 2005**

The Committee met on 11 January, 23 February and 22 March to consider aspects of the Council's Constitution, which had been raised by both officers and members as matters requiring review, some of which would be addressed by another method. The Action Sheets relating to the Committee's 11 January and 23 February meetings are attached as Appendix A1 and A2.

On 22 March the Committee considered reports of the Heads of Service concerned on all the matters on which the Committee considered they should make recommendations for change to the Council. Included in their deliberations had been the request from Council at their meeting on 8 November 2005 to consider whether there was a need for a change to the provisions relating to call –in and urgency procedures, as contained within the Overview and Scrutiny Rules.

The reports of the Heads of Service concerned, together with an Addendum circulated at the meeting would be circulated separately to all Members of the Council.

The Committee having noted the Action Sheet for the meeting held on 23 February made the following comments on the Officers' reports:

### **Review 2006: Council Procedure Rules**

The Committee considered that provision should remain in the Council agenda for Comments on the Work of Cabinet.

The Committee agreed:

- (i) that the full list of Questions to Cabinet Members should be circulated two working days preceding the Council Meeting. As a consequence the deadline for the delivery of Questions to the Democratic Services Manager would be brought forward to ten working days before the meeting (Action Sheet 23/2/06)
- (ii) that the only change to the current arrangements to the Agenda for an Ordinary Council Meeting would for Statutory Council Business becoming Part 5 Business, with Comments on the Work of Cabinet at Part 6. If Part 6 business was not reached during a Council Meeting, the Cabinet Member concerned would be required to respond in writing to the Member concerned within 10 working days, and to send a copy to the Democratic Services Manager who would arrange for the response to be circulated to all Members of the Council.

In connection with the managing the business at Ordinary Meetings of the Council, the Committee believed that the situation would be eased by the General Functions Committee considering appointments to outside bodies and nominations to School Governing Bodies. The Committee considered that , in certain circumstances, consideration could be given to convening meetings of the General Functions Committee immediately prior to a Council meeting ( at 6pm) to enable the Committee to refer appointments to Council should the need arise.

The Committee had previously agreed to

- (i) the Democratic Services' Manager's Supplemental Report being emailed to Members and delivered by hand on the day before the meeting (Action Sheet 23/2/06);
- (ii) Motions being capable of being amended and/or withdrawn by the Member concerned up until the deadline for submission of Motions (Action Sheet 11/1/06)

### **Review 2006: Overview and Scrutiny Rules**

The Committee:

- (i) considered that there should be further clarification included in the Rules relating to the Call- in arrangements of what would happen to items not dealt with by 10pm, where no vote had been taken, in accordance with the changes proposed.

In the circumstances the Committee agreed to the insertion at the end of paragraph 16(e) to the words " For the avoidance of doubt, where an item has not been dealt with by 10pm, the decision will be implemented forthwith".

- (ii) with regard to the rules relating to Call – in and Urgency, the Committee also agreed to amend the definition of absence.

### **Access to Information Changes**

The Committee noted that the proposals reflected the statutory changes now in force as a result of the Local Government (Access to Information) (Variation) Order 2006.

### **Financial Regulations**

The Committee noted that Part 2 of the Financial Regulations were currently under review and agreed the proposed changes to Part 1.

### **Licensing Code of Practice**

The Committee noted that the Code was based on both legislation and guidance issued by the Local Authorities Co-ordinators of Regulatory Services) guidance.

### **Review 2006: Public Participation Rules**

The Committee also had regard to an addendum.

- (i) considered that some of the issues raised in the Officers' report would best be dealt with by Chairmen at meetings and should be included in the training for new Chairmen, together with a small amendment to the Members' Planning Code of Conduct ;
- (ii) that where petitions were received by the Democratic Services Manager which related to Executive functions, not within the Terms of Reference of the Area Environment Sub – Committee, these should be reported to Cabinet;

### **Rules for the Disposal of Land and Real Property**

The Committee also had regard to the addendum.

The Committee noted that the proposed changes were designed to make the Rules more comprehensive and effective.

### **Amendments to the Constitution.**

The Committee also had regard to an addendum.

The Committee noted that the changes proposed in the Officers' Report relating to the:

- (i) Terms of Reference of the General Functions and Audit Committee

had been agreed at the February meeting. They further agreed to the clarification that the nomination of school governing bodies also was within the Terms of Reference of the General Functions Committee;

- (ii) Terms of Reference of the Area Planning Sub – Committees and , as a consequence to the Planning and Environment Committee, had been agreed by at the February meeting;
- (iii) Terms of Reference of the Licensing Committee and Licensing Sub – Committees paved the way for the implementation of the Gambling Act 2005; the clarification changes to the portfolio of the Cabinet Member for Planning and Licensing Services clarified the position;
- (iv) Terms of Reference of the Special Committee (Constitution Review) were a formality.

In addition the Committee considered that all reports of action taken by Heads of Service relating to staffing matters should be sent to the Chairman of the General Functions Committee, with the situation reviewed after one year.

#### **Ancillary matters**

The Committee noted that the changes proposed reflected their views at the January and February meetings.

#### **RECOMMEND –**

- (1) **That with effect from 16 May, 2006, the changes to the \Parts of the Constitution listed below and as agreed by the Committee be implemented:**

***Part 4, Section 1 – Council Procedure Rules (Appendix B) as proposed by the Borough Solicitor and amended by the Committee as follows:***

- **Statutory Council Business to become Part 5 Business**
- **Comments on the Work of Cabinet to become Part 6 Business.**
  - **Where Comments are not dealt with at the Council Meeting, the relevant Cabinet Member will respond in writing to the Member concerned within 10 working days, with a copy to the Democratic Services Manager who will circulate the Response to all Members of the Council.**

***Overview and Scrutiny Rules (Appendix C) – as proposed by the Borough Solicitor and amended by the Committee by***

- **New paragraph 16(e) Conclusion of business at Cabinet Overview and Scrutiny Committee including the addition of the explanation that any matters not dealt with by 10pm will implemented forthwith;**
- **Remainder of Rule 16 re-lettered, with the provisions relating to Call – in and urgency (now Rule m) being clarified by the definition of “absence”.**

***Access to Information Procedure Rules (Appendix D) – as proposed by the Borough Solicitor***

***Financial Regulations (Appendix E) – as proposed by the Chief Finance Officer***

***Members’ Licensing Code of Practice (Appendix F) – as proposed by the Borough Solicitor***

***Public Participation Rules (Appendix G) – as proposed by the Borough Solicitor and amended by the Committee in respect of:***

**Petitions relating to Executive functions not within the Terms of Reference of the Area Environment Sub – Committees will be reported to Cabinet.**

***Rules for the Disposal of Land and Real Property (Appendix H) – as proposed by the Borough Solicitor.***

***Part 3 – Responsibility for Functions (Appendix I) – as proposed by the Borough Solicitor and Head of Planning and amended by the Committee by***  
**the inclusion of the requirement for all reports of action taken by Chief Officers under delegated powers relating to staffing to be sent to the Chairman of the General Functions Committee.**

***Part 4 – Section 2: Committees and Sub – Committees (Appendix J) – as proposed by the Borough Solicitor***

***New Detailed Contents Page and List of tables (Appendix K) - as proposed by the Borough Solicitor***

***Change to Rule 2 of the Budget and Policy Framework Procedure Rules (Appendix L) – as proposed by the Chief Finance Officer.***

***Planning Code of Conduct for Members (Appendix M) -***

**To advise Members serving on planning committees that they should not frame questions so as to permit additional time for an individual speech as by permitting one individual to extend their speaking time could potentially be challengeable.**

- (2) That the reasons for the exclusion of the Licensing Committee from the Public Participation Rules be noted.**
- (3) That, in due course, the Borough Solicitor submit a summary version of the Constitution to the Committee.**
- (4) That, with respect to the General Functions Committee:  
(i) no action be taken with regard to the operation of minority referral at the General Functions Committee but the matter be reviewed in connection with the 2006/07 review and that the Borough Solicitor be instructed to make the appropriate arrangements;  
(ii) consideration be given to convening meetings of the General Functions Committee, where appropriate, immediately preceding Council on the same night as Council, to deal with appointments to outside bodies and nominations to school governing bodies, to enable appointments/nominations to be referred up to Council, if necessary and the Democratic Services Manager be instructed to take the necessary action;  
(iii) the situation relating to actions taken by Chief Officers under delegated powers with respect to staffing matters be review in a year's time and the Borough Solicitor be instructed to take the appropriate action.**
- (5) That no changes be made at this time to the operation of the call – in and urgency procedures in respect of the Cabinet Overview and Scrutiny Committee in view of the few reports that had been exempted from call – in during 2005/2006.**
- (6) That early during the next municipal year the Committee  
(i) initiate debate and discussions on the structure and purpose of the Council meeting;  
(ii) consider the Terms of Reference of the General Functions Committee;  
and that the Borough Solicitor be instructed to arrange accordingly.**

- (7) That the Borough Solicitor be instructed to arrange training for new Chairmen of Committees on the effective management of Committees, in accordance with Constitutional provisions.**

The meeting finished at 9.02pm

**APPENDIX A1**

**Special Committee (Constitution Review): 11 January, 2006**

**Action Sheet**

Item	Action	By
1. Apologies for Absence: Councillor Mike Freer		
2. Constitution Review		
(i) BS advised that all references to BT in the Constitution would be amended to CFO, in the light of the restructure of the Resources Directorate.	Amend Constitution – housekeeping operation	DSM
	Article 12 to be amended also	DSM
(ii) Future meetings: 23 February 2006, 22 March 2006	Agendas circulated	DSM
	Papers to be prepared	Officers as indicated in the attached
(iii) Review of terms of reference of Audit Committee	Report on issues to Audit Committee	CIA/CFO/DOR
	Report on outcome to Special Committee	CFO
(iv) Proposals for revising delegation of powers to the Area Panning Sub - Committee	HOP's paper to March 22 Meeting	DSM

**The meeting finished at 8.10pm**

**Abbreviations:**

- BS = Borough Solicitor
- BT = Borough Treasurer
- CFO = Chief Finance Officer
- DSM = Democratic Services Manager
- CIA = Chief Internal Auditor
- DOR = Director of Resources
- HOP = Head of Planning



Constitution Review: Proposed changes:

Enclosure 1

Constitution Reference		Lead Officer
Responsibility for Functions		
1.	Statements of Accounts: Transferring responsibility for the statement of Accounts from General Functions Committee to the Audit Committee – <b>recent CIPFA guidance also refers</b>	Chief Finance Officer /Borough Solicitor
2	Review of terms of Reference of Audit Committee in the light of the recent CIPFA advice	Chief Finance Officer/Director of Resources/Chief Internal Auditor
3.	Review of terms of Reference of Standards Committee to deal with minor matters without need for referral to Standards Board. <b>Review to include the definition of “minor” and sanctions that the Standards Committee could apply if a member was found to be in breach of the Code of Practice.</b>	Borough Solicitor
4.	Changes from responsibility flowing from merger of Resources and Borough Treasurer’s service	Director of Resources/Chief Finance Officer/Head of Human Resources
5.	Changes to specific powers to Chief Officers	Borough Solicitor/Chief Finance Officer / Head of Human Resources
<b>No action required by the Special Committee</b>	Leader’s Scheme of delegation including Contract Procedure Rules and the implications of the Alcatel judgement and the implications of the new EU directives and the Council’s internal tendering arrangements for Education, and Social Care contracts.	Leader/ Chief Finance Officer/Borough Solicitor (for information – this does not come through this Committee).
6.	Revise wording of delegation to officers of Council <b>and Executive functions</b> - clarification	Borough Solicitor

7.	Clarification of delegation to Officers of minor restructuring arrangements, <b>including definition of “minor”</b>	Director of Resources (Policy and Equalities Manager)
8.Budget and Policy Framework Procedure Rules Overview and Scrutiny Rules	Review of Risk Management	Chief Finance Officer /Chief Internal Auditor/Head of Corporate Performance
9.Financial Regulations Parts 1 and 2	Introduction of the SAP system and creation of a larger Resources Directorate result in a need to review these regulations and simplify them as much as possible	Chief Finance Officer
10.Budget and Policy Framework	Possible need for a clarification section 2 “meetings to develop budget and policy” to reflect arrangements for “briefings”	Head of Corporate Policy/Director of Resources/ Chief Finance Officer
11.Responsibility for Functions	<p>Further delegation of powers to the Area Sub – Committees, including minor applications relating to Council land</p> <p>This forms phase 2 of modernising the planning processes – Phase 1 – delegation of powers to the Head of Planning was approved by the P and E Committee on. <b>HOP advised the Committee that the definitions of “minor” and “major” conformed to the guidance issues by the Office of the Deputy Prime Minister</b></p> <p><b>Paper to be resubmitted to the March meeting of the Committee, together with the proposed change to the Constitution</b></p>	<p>Head of Planning – paper attached</p> <p><b>Democratic Services Manager.</b></p>

12.Public Participation Rules	<p>(i)Need to correct anomalies</p> <p><b>(ii)Consider including the Licensing Committee (but not the Sub – Committees) within the scope of the Public Participation Rules.</b></p>	<p>Democratic Services Manager</p> <p><b>Democratic Services Manager/Borough Solicitor</b></p>
13.Overview and Scrutiny Rules	<p>Consider the operation of the provisions for call- in and urgency and whether there is a need for change. Report on outcome to Council - Council 8 November 2005.</p> <p><b>The Committee considered that there was no need for change at this time, in view of the few reports that had been called – in during 2005/2006. This comment to be included in the Committee’s report to Council arising from its March meeting.</b></p> <p><b>However, the Committee instructed officers to report to the next meeting on simplifying paragraph 16(l) : Call - in</b></p>	<p><b>Democratic Services Manager</b></p> <p><b>Democratic Services Manager</b></p>
	<p>Clarification of position if all matters called – in have not been dealt with by 10pm at Cabinet Overview and Scrutiny Committee – matters cannot be carried over to the next meeting</p> <p><b>Although, all matters not dealt with, by default, would be deemed as not being referred back to the original decision – making body for reconsideration, the Committee considered that the Chairman should put the matters to the vote.</b></p>	<p><b>Democratic Services Manager to make the appropriate amendment to the Constitution for consideration by the Committee.</b></p>

	Consider need for review generally of rules	Scrutiny Manager
15.Whole Constitution	<p>Identify problems areas where there is lack of clarity and rewrite or provide summary version</p> <p><b>The Borough Solicitor advised the Committee that within the time available it would not be possible to deal with the whole Constitution, but would form part of an on-going programme of work.</b></p> <p><b>The Committee appreciated the situation.</b></p> <p><b>The Committee also indicated its wish for a summary version of the Constitution, to be submitted to them in due course.</b></p>	<p>Borough Solicitor</p> <p><b>Borough Solicitor</b></p>
16.Freedom of Information Act Issues	updating	Deputy Borough Solicitor
17.Code of Practice for Members when dealing with Licensing Matters	<p>Similar to Planning Code.</p> <p><b>The Borough Solicitor confirmed that LACORS guidance would be taken into consideration in formulating the Code.</b></p>	Borough Solicitor/Head of Environment
18.Rules for the Disposal of Land and Property	Review to make more effective and comprehensive	Borough Solicitor/Director of Resources
19.Exempt Items at Committees	<p>(i) rights of attendance by Independent Standards Committee Members</p> <p>(ii) rights of attendance by co-opted members <b>at Committees of which they are members</b></p>	Borough Solicitor

20.Council Procedure Rules	<ul style="list-style-type: none"> <li>(i) Clarification of what constitutes an amendment</li> <li>(ii) Amendments to texts of motions before the deadline for receipt of Motions.</li> <li>(iii) Clarification of time set aside for Questions to Cabinet Members – Part 2</li> <li>(iv) Pre-meeting time limits generally</li> <li><b>(v) Review of Order of Business. The Committee considered it essential that sufficient provision was made to enable part 6 Business (Statutory Council Business) to be dealt with effectively.</b></li> </ul> <p><b>In connection with (ii) above, the Committee considered that Motions should be capable of being amended and /or withdrawn by the Member concerned up until the deadline for submission of Motions.</b></p> <p><b>It was also suggested that consideration could be given to permitting the Member concerned to withdraw his or her Motion at the Council meeting without the need for the Council’s consent.</b></p>	Democratic Services Manager/Borough Solicitor
21.Committees and Sub - Committees	<ul style="list-style-type: none"> <li>(i) Members’ Items – Rule 7.2 to be made consistent with Rule 31.1 of the Council Procedure rules : for clarity and consistency</li> <li>(ii) operation of minority referral at General Functions Committee</li> <li>(ii) Clarification of Chairman’s casting vote (Local Government Act 1972)</li> </ul>	Democratic Services Manager

	<b>In connection with (ii), the Committee agreed that there appeared to be no problems, but that the matter should be reviewed as part of the 2006/07 Constitution Review.</b>	<b>Democratic Services Manager to place on Agenda</b>
22. Whole Constitution	<ul style="list-style-type: none"> <li>(i) Standardisation of font and typeface</li> <li>(ii) More detailed contents page to assist navigation</li> <li>(iii) List of tables</li> </ul>	<p>Completed</p> <p>Democratic Services Manager</p>

**Special Committee (Constitution Review): 22 February 2006**

**Members present:**

Councillor Brian Salinger , Vice – Chairman ( in the Chair)  
 Councillors Danish Chopra, Daniel Hope, Alison Moore, Joan Scannell,  
 Eva Greenspan (substituting for Councillor Mike Freer), and Jim  
 Tierney ( substituting for Councillor Alan Schneiderman).

**Action Sheet**

Item	Action	By
1. Apologies for Absence: Councillors Mike Freer (Chairman) , Jack Cohen and Alan Schneiderman		
2. No Personal or Prejudicial interests were declared.		
3. Public Question Time - None received in accordance with the Constitution		
4. Action Sheet from meeting held 11 January.	BS updated the matrix, which is attached as amended.. The Committee noted the situation. Members wished to see the rewrites of the various parts of the Constitution arising from their deliberations.	As set out in the matrix.  DSM
5. Constitution Review : 2006 - Terms of Reference of Audit Committee. Committee noted that Audit Committee had unanimously agreed the proposed revisions to the Terms of Reference.	Constitution to be amended by: <ul style="list-style-type: none"> <li>• the inclusion of model Statement of Purpose and Model terms of Reference</li> <li>• Chairman not be a Member of the Executive and preferably be from an opposition party; and not serve in that role for more than four consecutive years</li> <li>• Committee to comprise between 5 -7 members, subject to political</li> </ul>	DSM to action regarding proposed changes to the Constitution and submit to next meeting  If changes to the Constitution are agreed by Council, DSM to bear in mind second and third bullett points in connection with

<p>- Clarification of delegation to officers of minor restructuring arrangements, including definition of “minor”</p> <p>- Overview and Scrutiny Rules, particularly Cabinet Overview and Scrutiny Committee</p>	<p>balance considerations;</p> <ul style="list-style-type: none"> <li>• requirement to conduct annual review of effectiveness now be included in the Terms of Reference, and that this be scheduled within the Committee’s work programme in time to make any recommendations each year to the Constitution Review Committee.</li> <li>• Proposals agreed , clarifications to be made to the Constitution</li> <li>• All copies of action taken by Officers under these delegated powers to be sent to the Chairman of the General Functions Committee</li> <li>• Situation to be reviewed in a year’s time</li> </ul> <p>Reconsider the proposal relating to taking the vote on all outstanding matters at 10pm and the situation relating to the submission of reasons, if any for referring back. Agreement in principle to the clarification.</p> <p>Proposed changes to</p>	<p>the appointment of the Committee at the Council’s Annual Meeting.</p> <p>DSM/CIA/CFO to note for work programme</p> <p>DSM to submit details to next meeting.</p> <p>Subject to Council’s agreement, DSM to advise all Directors and Heads of Service.</p> <p>BS/DSM to place on the Agenda.</p> <p>DSM/BS</p> <p>BS</p>
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<p>- Council Procedure Rules</p>	<p>paragraph 16 (1) be further clarified by the definition of absence and submitted to the next meeting.</p> <ul style="list-style-type: none"> <li>• No change to Rule 17/17A</li> <li>• 30 minutes to be safeguarded for Question Time (Part 2) – if the time goes beyond 7.45pm, the Mayor to propose how the rest of the business will be managed – with the first proposal being reduction in break.</li> </ul> <p><b>Pre- meeting deadlines</b></p> <ul style="list-style-type: none"> <li>• No change to deadlines relating to amendments</li> <li>• Supplemental Report to be emailed and delivered by hand.</li> <li>• Notice of Part 2 Questions to be changed to 10 working days before the meeting (Rule 30 – Explanatory note) and Questions and Answers to be circulated on the Friday prior to the Council meeting.</li> </ul> <p><b>Order of Business</b> Report to next meeting on options</p> <p>Other changes agreed</p>	<p>DSM/BS to propose changes to Constitution for submission to the next meeting.</p> <p>DSM to arrange</p> <p>DSM to submit relevant change to the Constitution to next meeting.</p> <p>DSM to arrange.</p> <p>DSM/BS</p> <p>DSM to submit changes to Constitution to the next meeting.</p> <p>BS/DSM for</p>
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	Debate on identity/role of Council and terms of Reference of General Functions Committee after May, 2006.	Agenda
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**The meeting finished at 8.50pm**

**Abbreviations:**

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- CFO = Chief Finance Officer
- DSM = Democratic Services Manager
- CIA = Chief Internal Auditor

Constitution Review: Proposed changes:

Enclosure 1

Constitution Reference		Lead Officer
Responsibility for Functions		
1.	Statements of Accounts: Transferring responsibility for the statement of Accounts from General Functions Committee to the Audit Committee – <b>recent CIPFA guidance also refers</b>	Chief Finance Officer /Borough Solicitor
2	Review of terms of Reference of Audit Committee in the light of the recent CIPFA advice: To 22/2/206 meeting	Chief Finance Officer/Director of Resources/Chief Internal Auditor
3.	Review of terms of Reference of Standards Committee to deal with minor matters without need for referral to Standards Board. <b>Review to include the definition of “minor” and sanctions that the Standards Committee could apply if a member was found to be in breach of the Code of Practice.</b>	Borough Solicitor To 23/3/06 meeting
4.	Changes from responsibility flowing from merger of Resources and Borough Treasurer’s service	Director of Resources/Chief Finance Officer/Head of Human Resources
5.	Changes to specific powers to Chief Officers	Borough Solicitor/Chief Finance Officer / Head of Human Resources To 23/3/06 meeting
<b>No action required by the Special Committee</b>	Leader’s Scheme of delegation including Contract Procedure Rules and the implications of the Alcatel judgement and the implications of the new EU directives and the Council’s internal tendering arrangements for Education, and Social Care contracts.	Leader/ Chief Finance Officer/Borough Solicitor (for information – this does not come through this Committee).
6.	Revise wording of delegation to officers of Council <b>and</b>	Borough Solicitor : To 23/3/06 meeting

	<b>Executive functions</b> - clarification	
7.	Clarification of delegation to Officers of minor restructuring arrangements, <b>including definition of “minor”</b> : 22/2/06 meeting	Director of Resources (Policy and Equalities Manager)
8.Budget and Policy Framework Procedure Rules Overview and Scrutiny Rules	Review of Risk Management	Chief Finance Officer /Chief Internal Auditor/Head of Corporate Performance To 23/3/06 meeting
9.Financial Regulations Parts 1 and 2	Introduction of the SAP system and creation of a larger Resources Directorate result in a need to review these regulations and simplify them as much as possible	Chief Finance Officer To 23/3/06 meeting
10.Budget and Policy Framework	Possible need for a clarification section 2 “meetings to develop budget and policy” to reflect arrangements for “briefings”	Head of Corporate Policy/Director of Resources/ Chief Finance Officer To 23./3/06 meeting
11.Responsibility for Functions	<p>Further delegation of powers to the Area Sub – Committees, including minor applications relating to Council land</p> <p>This forms phase 2 of modernising the planning processes – Phase 1 – delegation of powers to the Head of Planning was approved by the P and E Committee on.</p> <p><b>HOP advised the Committee that the definitions of “minor” and “major” conformed to the guidance issues by the Office of the Deputy Prime Minister</b></p> <p><b>Paper to be resubmitted to the March meeting of the Committee, together with the proposed change to the Constitution</b></p>	<p>Head of Planning – paper attached</p> <p><b>Democratic Services Manager.</b></p>

<p>12.Public Participation Rules</p>	<p>(i)Need to correct anomalies</p> <p><b>(ii)Consider including the Licensing Committee (but not the Sub – Committees) within the scope of the Public Participation Rules.</b></p>	<p>Democratic Services Manager</p> <p><b>Democratic Services Manager/Borough Solicitor</b> To 23/3/06 meeting</p>
<p>13.Overview and Scrutiny Rules</p>	<p>Consider the operation of the provisions for call- in and urgency and whether there is a need for change. Report on outcome to Council - Council 8 November 2005.</p> <p><b>The Committee considered that there was no need for change at this time, in view of the few reports that had been exempted from called – in during 2005/2006. This comment to be included in the Committee’s report to Council arising from its March meeting.</b></p> <p><b>However, the Committee instructed officers to report to the next meeting on simplifying paragraph 16(l) : Call – in</b> 22/2/06 meeting</p>	<p><b>Democratic Services Manager</b></p> <p><b>Democratic Services Manager</b></p>
	<p>Clarification of position if all matters called – in have not been dealt with by 10pm at Cabinet Overview and Scrutiny Committee – matters cannot be carried over to the next meeting</p> <p><b>Although, all matters not dealt with, by default, would be deemed as not being referred back to the original</b></p>	<p><b>Democratic Services Manager to make the appropriate amendment to</b></p>

	<p><b>decision – making body for reconsideration, the Committee considered that the Chairman should put the matters to the vote.</b> 22/2/06 meeting</p>	<p><b>the Constitution for consideration by the Committee.</b></p>
	<p>Consider need for review generally of rules</p>	<p>Scrutiny Manager To 23/3/06 meeting</p>
15.Whole Constitution	<p>Identify problems areas where there is lack of clarity and rewrite or provide summary version</p> <p><b>The Borough Solicitor advised the Committee that within the time available it would not be possible to deal with the whole Constitution, but would form part of an on-going programme of work.</b></p> <p><b>The Committee appreciated the situation.</b></p> <p><b>The Committee also indicated its wish for a summary version of the Constitution, to be submitted to them in due course.</b></p>	<p>Borough Solicitor – Long term project</p> <p><b>Borough Solicitor –</b></p>
16.Freedom of Information Act Issues	<p>updating</p>	<p>Deputy Borough Solicitor to 23/3/06 meeting</p>
17.Code of Practice for Members when dealing with Licensing Matters	<p>Similar to Planning Code.</p> <p><b>The Borough Solicitor confirmed that LACORS guidance would be taken into consideration in formulating the Code.</b></p>	<p>Borough Solicitor/Head of Environment To 23/3/06 meeting</p>
18.Rules for the Disposal of Land and Property	<p>Review to make more effective and comprehensive</p>	<p>Borough Solicitor/Director of Resources To 23/3/06 meeting</p>

19.Exempt Items at Committees	<ul style="list-style-type: none"> <li>(i) rights of attendance by Independent Standards Committee Members</li> <li>(ii) rights of attendance by co-opted members <b>at Committees of which they are members</b></li> </ul>	Borough Solicitor To 23/3/06 meeting
20.Council Procedure Rules	<ul style="list-style-type: none"> <li>(i) Clarification of what constitutes an amendment</li> <li>(ii) Amendments to texts of motions before the deadline for receipt of Motions.</li> <li>(iii) Clarification of time set aside for Questions to Cabinet Members – Part 2</li> <li>(iv) Pre-meeting time limits generally</li> <li>(v) <b>Review of Order of Business. The Committee considered it essential that sufficient provision was made to enable part 6 Business (Statutory Council Business) to be dealt with effectively.</b></li> </ul> <p><b>In connection with (ii) above, the Committee considered that Motions should be capable of being amended and /or withdrawn by the Member concerned up until the deadline for submission of Motions.</b></p> <p><b>It was also suggested that consideration could be given to permitting the Member concerned to withdraw his or her Motion at the Council meeting without the need for the Council’s consent.</b></p> <p>To 22/2/06 meeting</p>	Democratic Services Manager/Borough Solicitor
21.Committees and Sub -	(i) Members’ Items – Rule 7.2 to be made consistent with	Democratic Services Manager

Committees	<p>Rule 31.1 of the Council Procedure rules : for clarity and consistency</p> <p>(ii) operation of minority referral at General Functions Committee</p> <p>(ii) Clarification of Chairman's casting vote (Local Government Act 1972)</p> <p><b>In connection with (ii), the Committee agreed that there appeared to be no problems, but that the matter should be reviewed as part of the 2006/07 Constitution Review.</b></p>	<p>To 23/3/06 meeting</p> <p><b>Democratic Services Manager to place on Agenda</b></p>
22.Whole Constitution	<p>(i) Standardisation of font and typeface</p> <p>(ii) More detailed contents page to assist navigation</p> <p>(iii) List of tables</p>	<p>Completed</p> <p>Democratic Services Manager</p> <p>To 23/3/06 meeting</p>



## **APPENDIX B**

**Rule 7.2 – Addition of reference to the Mayor having a casting vote**

**Rule 17.B.1 – A Member being able to alter or amend his or her motion up until the deadline for submission**

**Rule 17.C.1 - A Member being able to withdraw his or her motion up until the deadline for submission**

**Rule 30 - Question Time. The explanatory note amended to indicate that Questions will be circulated two working days before the meeting.**

**Rule 30.3 amended to indicate that Questions must be delivered in writing either by hand, post, fax or email, 10 working days before the meeting.**

**Rule 43.5 – Comments not dealt with at Council will be responded to in writing within 10 working days. Democratic Services Manager to circulate full response to all Members.**

**All references to the Order of Business for Ordinary Meetings to be amended by Statutory Council Business becoming Part 5 business and Comments on the Work of Cabinet becoming Part 6.**

## EXTRACT

## APPENDIX B

### Section 1 – The Council

(Section revised April 2004)

#### Types of meetings

##### Explanatory notes – types of council meetings

Article 4 of the Council Constitution sets out three types of council meeting.

The council meeting comprises all elected members of the council.

#### **Annual meetings**

By law, the Council must hold an annual meeting of the Council. It usually does so in May.

The Council will appoint the Cabinet to deal with the executive functions allocated to it under the constitution, and committees to deal with other non-executive functions. The Cabinet can appoint any body subordinate to it, but only committees can appoint sub-committees and panels. Panels are small sub-committees with a specific purpose. Therefore, Barnet's practice is to hold a joint meeting of committees following the annual meeting of the Council to:

- Set up any sub-committees or panels; and
- Appoint councillors and co-opted members to them for the next municipal year.

#### **Ordinary meetings of Council**

These will normally be held monthly, unless the Council or Mayor decides otherwise, at 7pm at the Town Hall, The Burroughs, Hendon on the dates agreed by the Council, usually at its annual meeting.

#### **Budget**

The Council must meet before 11 March to agree the Council's budget and the council tax for the following financial year. At this meeting, the Council will usually agree performance management plans that set out what services intend to do in the forthcoming financial year and the revenue and capital programmes that support them.

Council 20 April 2004

## Council Procedure Rules

### **Mayoralty**

It is the custom in Barnet for the Council in March to consider nominations for the election of Mayor for the following municipal year. At the meeting the Mayor calls for nominations. After they have been proposed and seconded they are put to the vote. The successful nomination becomes the “Mayor Designate”. The actual election of the Mayor is decided at the annual meeting of the Council.

### **Chairing Council meetings**

By law, the Mayor must chair Council meetings. In the absence of the Mayor, the Deputy Mayor may preside only if chosen for that purpose at the meeting. If the Deputy Mayor is not chosen, the Council must choose another member of the Council to preside.

### **Agenda conference**

At least two weeks before an ordinary meeting, the Democratic Services Manager will arrange an agenda conference by e-mail with the Leader of the Council, the Leaders of any other political groups and Group Secretaries, or their representatives:

- to consult on the agenda;
- to agree the time limits for discussion of each item and for debating any amendments.

All Members of Council will be informed of the items scheduled for consideration at the next meeting on the day after the Agenda Conference.

## **1. Annual meeting of the Council**

- 1.1 In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.
- 1.2 The annual meeting will:
  - 1.2.1 elect a person to preside if the Mayor is not present;
  - 1.2.2 elect a Mayor (who may appoint a Deputy Mayor);
  - 1.2.3 approve the minutes of the last meeting;
  - 1.2.4 receive official announcements;
  - 1.2.5 elect the Leader;
  - 1.2.6 appoint the Leader and nine other members to the Cabinet, and decide whether to appoint one of them Deputy Leader;
  - 1.2.7 note the appointment as Leader of the Opposition of the Leader of the largest political group other than the group of which the Leader of the Council is a member;

## **Council Procedure Rules**

- 1.2.8 appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions as set out in Part 3, Table 1 and 2 of this Constitution, and a Chairman and (if Council so wishes) Vice-Chairman for each;
- 1.2.9 agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 3 of this Constitution;
- 1.2.10 approve a programme of ordinary meetings of the Council for the year;
- 1.2.11 consider any other business dealt with in Part 6 of an ordinary Council meeting set out in the notice convening the meeting.

### **2. Selection of Councillors on Committees and outside Bodies**

At the annual meeting the council will:

- i. decide which committees to establish for the municipal year;
- ii. decide the size and terms of reference of those committees;
- iii. decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- iv. receive nominations of councillors to serve on each committee and outside body; and
- v. appoint to those committees and outside bodies except where appointment to those outside bodies has been delegated by the Council or is exercisable only by the executive.

### **3. Ordinary meetings**

- 3.1 Unless the Council or Mayor decides otherwise, ordinary meetings of the Council shall be held at 7pm at the Town Hall, The Burroughs, Hendon in accordance with a programme decided at the Council's annual meeting.
- 3.2 Ordinary meetings will deal with the following matters except for the meeting that deals with the approval of the budget and council tax to which only Parts 1 and 6 will apply.

### **Part 1 - Statutory formalities/Announcements (15 minutes)**

- 1. Elect a member to preside if the Mayor is absent
- 2. Prayer
- 3. Minutes of last meeting
- 4. Official announcements
- 5. Declarations of interest

## **Council Procedure Rules**

6. Any business remaining from last meeting

### **Part 2 - Question Time (30 minutes or until 7.45 p.m. whichever is longer)**

7. Questions to the Leader and Cabinet

### **Part 3 - Members' Motions (60 minutes)**

8. Motions in the order in which notice has been given

***(Break – 15 minutes)***

### **Part 4 – Policy Development (60 minutes)**

9. **Administration Policy Item (30 minutes)**

Matters proposed by the political group led by the Leader of the Council and any other political group which acknowledges that it has combined with it to form a political administration.

10. **Opposition Policy Item (30 minutes)**

Matters proposed by the other political groups, lasting no more than 30 minutes.

In the absence of agreement between the opposition political groups, the time available in this part of the meeting will be allocated pro rata to the number of members in each group.

### **Part 5 - Statutory Council Business (40 minutes)**

11. Reports from Cabinet
12. Reports from overview and scrutiny committees
13. Reports from other council committees
14. Reports of officers

## Council Procedure Rules

### **Part 6 - Accountability**

- 15. Comments on the work of the Cabinet (10 minutes)
- 16. Questions to council representatives on outside bodies (this is a statutory requirement for the Council meeting) (10 minutes)

#### **4. Agenda Conference and Timetable for Meetings**

- 4.1 The Democratic Services Manager will set the agenda and timetable after consultation with the political groups.
- 4.2 The Democratic Services Manager will consult by e-mail the Leaders or if unavailable another representative of the political groups at least two working weeks before the meeting to consult them on the agenda and timetable. This will be known as "the agenda conference". The Administration and the Opposition will confirm to the Democratic Services Manager in writing by 4pm that day the full text of the policy initiatives to be debated in Part 4 of the meeting.
- 4.3 The Democratic Services Manager will circulate the draft agenda on the next day.

#### **4(a) Callover**

On the day before the meeting after the 10.30 deadline for final items of business the Democratic Services Manager will consult by e-mail the Mayor and political group leaders, copying-in group secretaries (or if unavailable other representatives of the political groups) on variations to the agenda and timetable to add additional time to Part 3 of the meeting from any unused Part of the meeting as set out in Rule 3.2, provided that this does not cause the meeting to terminate after 10.30 pm.

The Democratic Services Manager will notify Members that day of the changed timetable.

The variation will be made by a Motion moved by the Mayor at the commencement of Part 3.

#### **5. Visual presentations**

A Member presenting a Motion in Part 3 or commenting on the work of the Cabinet in Part 5 shall be able to make a visual presentation.

#### **6. Extraordinary meetings**

- 6.1 Extraordinary meetings can be called in accordance with the legal requirements.

## **Council Procedure Rules**

- 6.2 The only business permitted at an extraordinary meeting is that which appears in the summons.

### **Explanatory notes – extraordinary meetings**

The Mayor may call an extraordinary meeting at any time.

Five members of the Council may also request the Mayor to call an extraordinary meeting. The meeting must be called within 7 days of the notice being presented to the Mayor, although there is no time limit by which the meeting must take place. If the Mayor refuses, or does not call the meeting within the 7 days, any five members may themselves call an extra-ordinary meeting.

*(Paragraph 3 of Schedule 12 of the Local Government Act 1972)*

### **Order of business and general procedure for all meetings**

#### **7. Chairing Meetings**

- 7.1 The person presiding at the meeting may exercise any power or duty of the Mayor concerning the conduct of Council meetings.
- 7.2 The Mayor or person presiding at the meeting will always be able to exercise a casting vote in the event of an equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided he or she has voted when the motion or amendment was first put to the vote.

#### **8. Quorum**

- 8.1 No business will be transacted at a meeting of the Council unless there is a quorum present. The quorum is  $\frac{1}{4}$  of the membership of the Council rounded up to the nearest whole number.
- 8.2 If there is no quorum at the time the meeting is due to begin, the start of the meeting will be delayed for up to 15 minutes. When 15 minutes has passed, the Democratic Services Manager will count the number of members present, and if there is no quorum, he or she will advise the meeting that no business can be transacted and the meeting will be cancelled.
- 8.3 If the Mayor finds that a quorum of members is not present at any time during the meeting, the Democratic Services Manager shall call over the names of the members of the Council. If there is not a quorum of members present, the Mayor shall adjourn the meeting and the Democratic Services Manager shall record in the minutes of the meeting the names of those who were present and those who were absent.

## Council Procedure Rules

### Explanatory Note – Inquorate meetings, adjourned meetings, cancellation and postponement

Where a meeting is inquorate it cannot be held, and if a meeting already commenced becomes inquorate no further business can be transacted. Such a meeting is not “adjourned” since this would require a positive decision that the meeting is, of course, unable to take.

In these circumstances a new date for a meeting must be arranged in accordance with Council Procedure Rule 12 and the Access to Information Procedure Rules giving the requisite days notice of the meeting.

Where a meeting is adjourned by the Mayor or by a unanimous or majority decision of the members a new meeting date must be arranged on the same basis.

Once the council has been convened by the proper officer publishing notice of the meeting there is no power for anyone to cancel or postpone it.

The meeting must take place and, if quorate, transact the business set out on the summons.

This does not prevent members at the meeting, if they consider it inappropriate for the meeting to proceed for whatever reason, from taking a unanimous or majority decision to adjourn it.

## 9. Order of business

The order of business at meetings of the Council shall be as set out in Rules 1 and 2.

## 10. Variation

10.1 The following order of business may not be changed:

10.1.1.1 to choose a person to preside if the Mayor is absent

10.1.1.2 to deal with any business required by statute to be done before any other business

10.1.1.3 to approve the minutes as a correct record



## **Council Procedure Rules**

- 10.2 The order of any other business may be varied:-
- 10.2.1 by the Mayor at his or her discretion either at or before the meeting; or
  - 10.2.2 by a motion put forward, seconded, and carried without discussion, by a majority of members at the meeting. No written notice of the motion is required.

### **11. Minutes**

- 11.1 The minutes of the last ordinary meetings of the Council and any extraordinary meetings will be circulated with the agenda for the next ordinary meeting of the Council, provided that it is not on the same day.

*(Paragraph 3 of Schedule 12 of the Local Government Act 1972)*

- 11.2 The Mayor shall put the question that the minutes of the meeting of the Council held on the ..... day of ..... be approved as a correct record.
- 11.3 No discussion shall be allowed on the confirmation of the minutes. Any question about their accuracy must be raised by motion and voted on without discussion. Upon approval as a correct record, the Mayor shall subsequently sign the minutes.

### **12. Resumption of adjourned meetings**

- 12.1 The Democratic Services Manager, in consultation with the Mayor, must summon the members to resume any meeting adjourned because:
- 12.1.1 the meeting became inquorate; or
  - 12.1.2 the Mayor adjourned the meeting due to a general disturbance in any part of the meeting place open to the public; or
  - 12.1.3 the Mayor adjourned the meeting due to a named member continually disrupting the meeting.

*(See standing order 28)*

- 12.2 The meeting must be held within ten days of the adjournment and the summons will give details of the business remaining to be dealt with. No new items may be included on the agenda.

## **Standing Orders – Interpretation, suspension and amendment**

### **13. Interpretation**

- 13.1 The ruling of the Mayor concerning the interpretation or application of these standing orders shall not be challenged at any meeting of the Council.
- 13.2 The ruling of the person presiding at a meeting of any Council body must not be challenged on the interpretation of standing orders relating to the meeting.

## **Council Procedure Rules**

### **14. Suspension**

- 14.1 The Council at any of its meetings may suspend any standing order provided that:
- 14.1.1 either due notice has been given, or Council agrees that it is a case of urgency, and
  - 14.1.2 the motion to suspend a standing order is moved, seconded and carried without discussion by a majority of the members of the Council present and voting.

### **15. Amendments to Standing Orders**

A meeting of the Council may only consider changes to these standing orders if notice of the intention is included in the summons for the meeting.

### **Close of business**

### **16. Suspension of business**

- 16.1 No business at any meeting of the Council shall be transacted after 11 p.m. and any business transacted after that time shall be null and void

### **Rules that apply to the whole of all Council meetings**

### **17. Validity of motions, amendments, initiatives and questions**

- 17.1 Every motion, amendment, initiative and question shall be relevant to matters within the Council's powers or duties or which affect the borough. The Mayor shall, if need be, give a ruling as to whether the motion is relevant.
- 17.2 If the Democratic Services Manager has any doubts about any motion, amendment, initiative or question for the agenda for reasons of propriety, he or she may refer it to the Mayor.
- 17.3 If the Mayor considers the motion, amendment, initiative or question to be vexatious, irrelevant, or otherwise improper, the Democratic Services Manager will return it to the member who submitted it. The Democratic Services Manager will explain to the member in writing why it will not be included on the agenda circulated for the meeting. The matter will only be included on the agenda if it is resubmitted in the

## **Council Procedure Rules**

timescale for receiving an item of business of that category and is signed by at least fifteen members of the Council.

### **17A General provisions for motions and amendments**

- 17A.1 An amendment must be relevant to a motion on the agenda and shall be to either:
- 17A.1.1 refer a subject of debate to a committee for consideration or re-consideration; or
  - 17A.1.2 change the words (including deleting or adding words) but such changes must not merely have the effect of negating the motion before the Council.

### **17A.2 No member may submit more than one amendment to a particular motion or report on the agenda.**

- 17A.3 If requested by the Mayor, the mover of a motion or amendment shall put it in writing and hand it to the Mayor before it is discussed or put to the vote. This standing order does not apply to motions or amendments where notice has been given in accordance with these standing orders.

### **17B Alterations to motions or amendments**

- 17.B.1 Where, under Rule 31 a motion (including Administration and Opposition Policy Initiatives for debate in Part 4 of the meeting) has been notified to the Democratic Services Manager, but the deadline for giving such notice has not passed:-

- A Member may alter the text of his or her motion or amendment by giving further notice to that effect to the Democratic Services Manager within the deadline. The Democratic Services Manager will keep a record of the altered text and shall record the date the notice altering the text was received. Any Member of the Council may inspect the record.

Otherwise, where the deadline for giving notice of a motion or amendment to the Democratic Services Manager has passed:-

- A Member may, at the Council meeting and with the consent of the Mayor, alter the text of his or her motion or amendment. If the motion or amendment has been moved and seconded, the seconder must also give further consent to the alteration.

Any alteration must adjust, correct or clarify the motion or amendment and must not change its sense, meaning or purpose to such an extent that it becomes an entirely new motion or amendment.

### **17C Withdrawal of motions and amendments**

- 17.C.1 Where, under Rule 31 a motion or amendment (including Administration and Opposition Policy Initiatives for debate in Part 4 of the meeting) has been notified to the Democratic Services Manager, but the deadline for giving such notice has not passed:-
- A Member may withdraw his or her motion or amendment by giving further notice to that effect to the Democratic Services Manager within the deadline. The

## **Council Procedure Rules**

Democratic Services Manager will keep a record of the notice of withdrawal including the date it was received. Any Member of the Council may inspect the record. Once notice of withdrawal has been received by the Democratic Services Manager, the Member concerned may not move the same motion or amendment (or a similarly worded motion or amendment having the same overall meaning purpose or intent as the withdrawn motion or amendment) for that particular Council meeting.

Otherwise, where the deadline for giving notice of a motion or amendment to the Democratic Services Manager has passed:-

- The mover may, at the Council meeting and with the consent of the Council and his or her seconder, withdraw his motion or amendment. No member may speak on the motion or amendment after the mover has asked permission for its withdrawal, unless permission has been refused.

### **18. Motions and amendments which may be moved without notice**

18.1 The following motions and amendments may be moved without notice to:

- 18.1.1 appoint a Chairman of the meeting;
- 18.1.2 question the accuracy of the minutes;
- 18.1.3 move that an item of business in the summons takes precedence;
- 18.1.4 appoint a committee (including its members, a Chairman and Vice-Chairman and members having related specified duties);
- 18.1.5 agree to hear oral representations;
- 18.1.6 give leave to withdraw a motion;
- 18.1.7 extend the time limit for speeches;
- 18.1.8 move that "the question be now put" (to the vote);
- 18.1.9 move that "the debate be now adjourned";
- 18.1.10 move that "the Council do now adjourn";
- 18.1.11 exclude or to re-admit the press and public under section 100A(4) of the Local Government Act 1972;
- 18.1.12 move that a member named under standing order 30 be not further heard or do leave the meeting;
- 18.1.13 deal in public with a staff matter;
- 18.1.14 give consent of the Council where consent is required by these standing orders;
- 18.1.15 grant urgent action powers.

### **19. Motions which may be moved during debate and closure motions**

## Council Procedure Rules

- 19.1 When a motion is under debate no other motion shall be moved except:
- 19.1.1 to amend the motion;
  - 19.1.2 motions moved by the Mayor or another member that a member:
    - "be not further heard";
    - "must leave the meeting";
  - 19.1.3 motions to exclude the press and public
  - 19.1.4 closure motions as follows:

A member may move without comment, at the conclusion of a speech of another member;

    - "That the question be now put";
    - "That the debate be now adjourned"; or
    - "That the Council do now adjourn".

If the motion is seconded, the Mayor shall put the motion to the vote without further discussion.
  - 19.1.5 If the Council agree "that the question be now put", the mover of the motion will retain his or her right of reply before the motion is put to the vote.

### **19A. Speeches - limit and content**

- 19A.1 A member may only speak once during the debate on an item of business to either:
- 19A.1.1 move an amendment or motion; or
  - 19A.1.2 second or speak on an amendment or motion moved by another member.
- 19A.2 The exceptions are:-
- 19A.2.1 to speak on the substantive motion;
  - 19A.2.2 to exercise a right of reply;
  - 19A.2.3 on a point of order; and
  - 19A.2.4 by way of personal explanation.
- 19A.3 A member shall direct his or her speech to:
- 19A.3.1 the question under discussion or
  - 19A.3.2 a personal explanation or a point of order.

## **Council Procedure Rules**

### **Voting and division**

#### **20. Division bell**

When the mover of an original motion is called by the Mayor to speak in response to any debate or amendment, but not on the adoption of a cabinet or committee report, the Democratic Services Manager shall arrange for a bell to be rung.

#### **21. Voting**

21.1 All motions and amendments shall be determined by a show of hands except where otherwise provided by law or in these standing orders.

21.2 Members must be seated in the Chamber when voting and while the vote is being recorded.

#### **22. Member's dissent**

22.1 If, immediately after a vote is taken, a member requests his or her vote to be recorded, the Democratic Services Manager will record in the minutes whether that member:

22.1.1 cast his or her vote for or against the question; or

22.1.2 abstained from voting.

#### **23. Division**

23.1 If following a vote, ten members rise in their place and demand a formal division, the Democratic Services Manager shall call over the names of all the members, and record and enter in the minutes those:

23.1.1 voting for or against the motion or amendment;

23.1.2 abstaining from voting; and

23.1.3 absent from the meeting when the division was taken.

23.2 The voting at the division shall take the place of the voting indicated by a show of hands.

#### **24. Voting on appointments**

Where more than two persons are nominated for any position to be filled by the Council, and there is no majority of votes in favour of one person, the name of the person having the least number of votes shall be deleted from the list. Further votes will then be taken on the same basis until a majority is given in favour of one person.

## Council Procedure Rules

### Members' conduct

#### 25. Only one member to stand at a time

A member when speaking shall stand and address the Mayor. If two or more Members rise, the Mayor shall call on one to speak: the other or others shall then sit. While a member is speaking the other members shall remain seated, unless rising on a point of order or in personal explanation.

#### 26. Respect for Chairman of meeting

Whenever the Mayor or member chairing the meeting rises during a debate any member then standing must resume his or her seat and the council must be silent.

#### 27. Points of order and personal explanation

27.1 **Points of order:** A member may rise on a point of order and must be heard forthwith. The point of order shall relate only to an alleged breach of a standing order or statutory provision. The member must specify the standing order or statutory provision and the way he or she considers it has been broken.

27.2 **Personal explanation:** A member who has previously spoken on an item of business may rise and, with the consent of the Mayor, speak in personal explanation. The member must be heard forthwith if consent is given. The personal explanation shall relate only to some material part of his or her previous speech, which may have been misunderstood in the present debate.

27.3 **Personal attack:** The Mayor may consent to a member giving an immediate personal explanation if he or she is abused, misinterpreted or unfairly accused of a misdemeanour by another member. The member's response should relate only to that part of the previous member's speech, which abuses, misinterprets or unfairly accuses him or her. No member may speak under this standing order unless the Mayor gives consent.

27.4 The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

#### 28. Disorderly conduct by a member

28.1 If the Mayor or another member considers that a member of the Council is:

28.1.1 persistently disregarding the ruling of the Mayor; or

28.1.2 behaving improperly or offensively; or

28.1.3 wilfully obstructing the business of the meeting;

## **Council Procedure Rules**

the Mayor may move "That [the member named] be not further heard". The motion if seconded shall be determined without discussion.

- 28.2 The Mayor must notify the Council of the misconduct before he or she, or another member may move the motion. If the motion is approved, the named member shall be entitled to vote on any remaining matters but must not speak.
- 28.3 If the named member continues in a disorderly manner after the motion has been passed, the Mayor may either:-
- 28.3.1 move "That [the member named] must leave the meeting" (in which case the motion shall be determined without seconding or discussion); or
  - 28.3.2 adjourn the meeting of the Council.
- 28.4 A member excluded from the meeting under this standing order will not be entitled to return to the meeting to vote on any item.
- 28.5 A motion passed in accordance with either standing order 28.2 or 28.4 will remain in force for any adjourned meeting.

<p><i>See also Access to Information Procedure Rules - Disturbances by individual members of the public and general disturbance.</i></p>
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## **29. Personal and Prejudicial Interests**

- 29.1 **Personal interest:** If any member of the Council has a personal interest in any matter being considered at a meeting, he or she must disclose to that meeting the existence and nature of that interest at the commencement of when the matter comes into consideration or when the interest becomes apparent.
- 29.2 **Prejudicial interests:** If any member of the Council has a prejudicial interest in any matter being considered at a meeting, he or she must disclose that interest in accordance with Standing Order 29.1 and withdraw from the Council Chamber (including the public gallery) until the matter has been dealt with unless he or she has obtained a dispensation from the Standards Committee.



## Council Procedure Rules

### Explanatory Note – Declaring Interests at Meetings

When a member declares a personal interest at a meeting, the member should state clearly:

(a) the specific nature of the interest e.g. employed by ABC Ltd, hold major shares in DE plc;

(b) whether or not it is a prejudicial interest;

If it is a prejudicial interest the member should state clearly:

(a) that he or she will withdraw from the Council Chamber until the matter has been dealt with; or

(b) that a dispensation has been given by the Standards Committee permitting the member to stay to speak and/or vote at the meeting and the nature of the dispensation.

The member's name, nature of the interest and whether or not the member remained in the meeting, took part in the debate or voted will be included in the minutes.

### Rules that apply to Part 2 of the meeting

#### 30. Question Time

##### Question time – explanatory note

Members may put questions to the Leader of the Council and other members of the Cabinet provided these are submitted in writing 10 working days before the meeting. The same member may ask one supplementary question. No notice is required of the supplementary question.

The questions and written answers will be circulated two working days before the meeting. Questions will be answered in the order in which they are received by the Democratic Services Manager but shall be ordered so that a question from one party is followed by a question from another party until all parties have placed one question each. This sequence shall be maintained until all questions have been dealt with or the time limit for question time is reached. The Democratic Services Manager will consult with the Leader if there is doubt about which Cabinet member should give an answer.

Any supplementary question and any answers will be recorded.

Normally, members may not ask a question which has already been dealt with at a previous Council meeting in the last six months.

## Council Procedure Rules

Question Time shall end after 30 minutes or at 7.45 p.m. whichever is longer but a supplementary question commenced before the expiry of the time limit may be answered.

- 30.1 In part 2 of the meeting the Leader of the Council and other members of the Cabinet will answer questions from any member of the Council. In the absence of the appropriate member of the Cabinet the question may be answered by another Cabinet member. The Democratic Services Manager will consult the Cabinet on which Cabinet member questions should be referred to.
- 30.2 Questions will be put to the appropriate Cabinet member in the order in which they are received by the Democratic Services Manager, except that questions shall be ordered so that a question from one political group is followed by a question from another group until all groups have placed one question each. This sequence shall be maintained until all questions have been dealt with or the time limit for question time is reached.
- 30.3 Any member wishing to ask a question must deliver it in writing, by hand, post, fax or e-mail, to be received by the Democratic Services Manager by 10.30am ten working days before the day of the meeting.
- 30.4 The Democratic Services Manager shall keep a register recording the date and time the question was received. Any member of the Council may inspect the record.
- 30.5 The Leader/Cabinet member may agree to answer a question of which notice has not been given, if it relates to urgent business and has been discussed with him/her before the meeting.
- 30.6 All questions must relate to the Council's powers or duties or matters that affect the borough or its residents.
- 30.7 The Leader/Cabinet member may decline to answer a question.
- 30.8 Every question shall be put and answered without discussion.
- 30.9 An answer will take the form of a written reply circulated on the last working day before the meeting but the Mayor may allow an oral elaboration from the appropriate Cabinet member. In the absence of the appropriate Cabinet member an oral elaboration may be allowed from another member of the Cabinet.
- 30.10 One supplementary question and answer will be allowed on the same subject from the same member.
- 30.11 Questions and answers will be recorded. The Democratic Services Manager shall send the transcript of oral questions and answers to the relevant members for correction of punctuation and grammar prior to publication.
- 30.12 The time allowed for questions will be 40 minutes. At the end of that time the Mayor will allow an oral reply to a supplementary question commenced before the expiry of the time limit and then bring this part of the meeting to a close. The Mayor has the right to prevent any member asking or giving a protracted supplementary question or answer.

## Council Procedure Rules

### Rules that apply to Part 3 of the meeting

#### 31. Individual members' motions for the agenda - Part 3 of the meeting

##### Individual member's motions - explanatory Note

These are in effect the method members may use to put items on the agenda for Council meetings for discussion.

Motions should be phrased to take account of the separate functions of the council and the Cabinet. Motions on Council functions, for example, may seek approval to a course of action or instruct council committees or officers to take action. Motions on Executive functions should invite the Cabinet to consider a matter identified in the motion.

- 31.1 Any member may put a motion on the agenda for an ordinary meeting of the Council, except the meeting that deals with the budget and council tax. The member must give written notice to the Democratic Services Manager at least six clear working days before the meeting. A working day is deemed to end at 4pm. Any motion delivered after 4pm will be recorded as received on the next working day. The motion must be signed by the member and delivered by hand, post, fax or e-mail.
- 31.2 The Democratic Services Manager shall keep a record of the date the notice was received and any member of the Council may inspect the record.
- 31.3 The Democratic Services Manager shall set out in the summons for the meeting all motions in order of receipt.
- 31.4 Once the motion is on the agenda, any member may move the motion at the meeting. If the motion is not moved it shall be treated as withdrawn, unless the Council agrees to postpone it.
- 31.5 If the member's motion is not dealt with by the end of the meeting, it will be referred to the Cabinet or an appropriate council committee or sub-committee for consideration and any necessary action. (However, if the proposer has specifically asked in his or her notice for the motion to be voted on at that Council meeting it will be voted on without discussion).
- 31.6 A member who has a motion on the agenda may submit a further motion by 10.30am on the last working day before the meeting asking for the motion to be withdrawn and referred to the Cabinet or an appropriate council committee. The member must sign the motion and deliver it to the Democratic Services Manager by hand, post, fax or e-mail.

#### 32. Amendments to motions

- 32.1 Amendments to motions must relate to the motion on the agenda. They may be:

## **Council Procedure Rules**

- 32.1.1 submitted to the Democratic Services Manager in writing, by hand, post, fax or e-mail, (in which case they must be received no later than 10.30 am on the working day before the day of the meeting, and will be circulated by email and by hand by the Democratic Services Manager at or before the meeting); or
- 32.1.2 moved orally at the meeting. The Democratic Services Manager may require oral amendments to be submitted in writing at the meeting.

### **33. Rules of Debate**

- 33.1 The rules of debate for part 3 of the meeting are as follows:
- 33.2 Each motion will be dealt with in turn in the order set out on the agenda. The motion need not be seconded. The member moving the motion, or another member of that group, will open the debate. The Leader of each of the other groups, or another member of their group, will then have an opportunity to comment. The time for this part of the debate will be set out in the timetable, and at the end of the time allowed the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.
- 33.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other members to move amendments. After all the amendments have been debated the motion will be debated. Then the member who opened the debate, or his/her nominee, has the right to respond.
- 33.4 At the end of debate the Mayor will put each amendment to the vote in turn. If an amendment is carried it alters the substantive motion.
- 33.5 The Mayor will then put the initiative to the vote.

### **34. Time for debate**

- 34.1 The time allowed for Part 3 of the meeting will be set out in the timetable. Each of the first three speakers under Rule 33.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all the business for that part of the meeting has been dealt with. The Mayor will then put the remaining items of business for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.
- 34.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment, motion or recommendation be put to the vote without further debate, or that the order of business be varied. This motion from the Mayor need not be seconded, and will be immediately put to the vote without debate.

## Council Procedure Rules

### Rules that apply to Part 4 of the meeting

#### 35. Administration and Opposition Policy Initiatives

##### Explanatory note

Part 4 of the meeting will debate:

- Any motions put forward by the Leader of the Council, a member of the Cabinet or the Leader of any other party or parties who form part of an administration. The time limit for the debate will be 30 minutes.
- Any motions put forward by the opposition groups. The time limit for the debate will be 30 minutes.

35.1 Motions must consist of comments or requests addressed to the Executive. They must address broad policy issues and relate to the Council's powers or duties or matters that affect the Borough or its residents.

35.2 Motions may not promote a policy initiative which has been rejected, or negate a policy initiative that has been agreed by Council or the Executive in the six months before the meeting.

#### 36. Rules of Debate

36.1 The rules of debate for administration and opposition policy initiatives are as follows:

36.2 Each policy initiative will be dealt with in turn in the order set out on the agenda. The initiative need not be seconded. The Leader of the group promoting the policy initiative, or another member of that group, will open the debate. The leader of each of the other groups, or another member of their group, will then have the opportunity to comment. The time for this part of the debate will be set out in the timetable, and at the end of the time allowed, the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.

36.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other members to move amendments. After all the amendments have been debated, the motion will be debated. Then the member who opened the debate, or his/her nominee, has the right to respond.

## **Council Procedure Rules**

36.4 At the end of the debate, the Mayor will put each amendment to the vote in turn. If an amendment is carried, it alters the substantive motion.

36.5 The Mayor will then put the initiative to the vote.

### **37. Amendments to motions**

37.1 Amendments to motions must relate to the motion on the agenda. They may be:

37.1.1 submitted to the Democratic Services Manager in writing, by hand, post, fax or e-mail (in which case they must be received by no later than 10.30 am on the working day before the day of the meeting, and will be circulated by the Democratic Services Manager at or before the meeting); or

37.1.2 moved orally at the meeting. The Democratic Services Manager may require oral amendments to be submitted in writing at the meeting.

### **38. Time for Debate**

38.1 The time allowed for Part of the meeting will be set out in the timetable. Each of the first three speakers under Rule 36.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time, the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all of the business for that part of the meeting has been dealt with. The Mayor will then put any remaining items of business for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.

38.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment or motion be put to the vote without further debate, or that the order of business be varied. This motion from the Mayor need not be seconded, and will be immediately put to the vote without debate.

## **Council Procedure Rules**

### **Rules that apply to Part 5 of the meeting**

#### **39. Questions on Cabinet/committee reports**

A member may ask the Leader/Chairman of a committee, or a member moving the reception of the report of the committee, any question on it whilst it is being considered. Notice of the question should be given to the Leader/Chairman, or any member moving the report, where practicable. Every question shall be put and answered without discussion. The person to whom a question has been put may decline to answer.

#### **40. Rules of debate**

- 40.1 The rules of debate in this part of the meeting for reports of the Cabinet (except for the report on the Budget and Council Tax to which Rules 44 to 47 apply), Committees and Overview and Scrutiny Committees are as follows.
- 40.2 The Leader/Chairman of the relevant committee, or another member of the Cabinet/Committee, will move reception of the report and adoption of the recommendations. This motion need not be seconded. The leader of each of the other groups, or another member of their group, will then have an opportunity to comment on the recommendation. The time for this part of the debate may be set out in the timetable, and at the end of the time allowed the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.
- 40.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other members to move amendments. Amendments need not be seconded. After all the amendments have been debated the motion will be debated. Then the member who opened the debate, or his or her nominee, has the right to respond.
- 40.4 At the end of the debate, the Mayor will put each amendment to the vote in turn. If an amendment is carried it alters the substantive recommendation.
- 40.5 The Mayor will then put the recommendation to the vote.

#### **41 Amendments to recommendations**

- 41.1 Amendments must relate to the recommendation of the Cabinet or committee. They may be:
- 41.1.1 submitted to the Democratic Services Manager in writing, by hand, post, fax or e-mail, (in which case they must be received no later than 10.30 am on the working day before the day of the meeting, and will be circulated by the Democratic Services Manager at or before the meeting); or

## **Council Procedure Rules**

41.1.2 moved orally at the meeting. The Democratic Services Manager may require oral amendments to be submitted in writing at the meeting.

### **42 Time for debate**

- 42.1 The time allowed for Part 6 of the meeting will be set out in the timetable. Each of the first three speakers under Rule 41.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all the business for that part of the meeting has been dealt with. The Mayor will then put the remaining items of business for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.
- 42.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment, motion or recommendation be put to the vote without further debate, or that the order of business be varied. This motion from the Mayor need not be seconded, and will be immediately put to the vote without debate.

### **Rules that apply to Part 6 of the meeting**

### **43. Comments on the work of the Cabinet**

- 43.1 In Part 6 of the meeting any Member who has given due notice shall be entitled to comment on the work of the Cabinet subject to the following conditions:
- (a) A Member's comment shall not relate to any item included elsewhere on the agenda for that meeting.
  - (b) A Member shall not comment upon more than one matter and that matter shall only relate to one subject.
  - (c) Only the Member giving notice may speak. At the conclusion of the Member's comments, the relevant Cabinet member shall be entitled to reply.
  - (d) In the event of notice being received from more than one Member of intended comment on the same subject, it shall be at the Mayor's discretion as to whether or not such comments shall be taken together.
- 43.2 Notice by the Member specifying the subject matter of any intended comment shall be given in writing, by hand, post, fax or e-mail, to the Democratic Services Manager by not later than 10.30am on the last working day before the meeting, and details shall be circulated by the Democratic Services Manager to all Members of the Council on that working day.
- 43.3 In the absence of the notifying Member it shall be competent for any other Member to act in his/her behalf provided he/she has been so authorised by the notifying Member.



## **Council Procedure Rules**

43.4 Comments and replies will be recorded. The Democratic Services Manager shall send the transcript to the relevant members for correction of punctuation and grammar prior to publication.

**43.5 Any Comments not dealt with at the meeting will be responded to in writing by the relevant Cabinet Member to the Member concerned within 10 working days, with a copy being sent to the Democratic Services Manager for circulation to all Members of the Council.**

### **44. Questions to Council representatives on outside bodies**

44.1 At an ordinary meeting, a member, who has given 21 clear days written notice to the Democratic Services Manager, may ask any question about the activities of a company or outside body to any member or officer who has been appointed or nominated to the outside body.

*(Sub-section 71(5) of the Local Government and Housing Act 1989 - Section 41, Local Government Act 1985 - G.P. Dec. 21/10/85-5)*

44.2 The member or officer may decline to answer if the question would disclose information about the outside body that has been communicated to him or her in confidence.

44.3 An answer may take the form of:

44.3.1 an oral or written answer (officers will invariably give written answers); or

44.3.2 a reference to a Council publication; or

44.3.3 a holding reply where it is not possible to give an immediate response. A written response must be circulated to members when the information is available.

44.4 No discussion shall be permitted about any question or the reply to it.

44.5 Questions and answers will be recorded. The Democratic Services Manager shall send the transcript of oral questions and answers to the relevant members for correction of punctuation and grammar prior to publication.

### **Rules that apply to the report of the Cabinet on the Budget and Council Tax, and Extraordinary Meetings**

#### **45 Amendments**

45.1 If a member wishes to move an amendment to recommendations in the Cabinet's report or an item on the agenda of an extraordinary meeting he or she may only do so if written notice has been given to the Democratic Services Manager by no later than 10.30 a.m. on the last working day before the day of the meeting.

The member must sign the amendment and deliver it to the Democratic Services Manager by hand, fax, post or e-mail and the Democratic Services Manager must have circulated details to all members on or before that day.

### **Council Procedure Rules**

45.2 The Council may at the meeting agree to waive the requirements of this standing order.

## Council Procedure Rules

### Dealing with amendments at the meeting

- 45.3 An amendment shall not be discussed or put to the meeting unless it has been moved and seconded.
- 45.4 Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been dealt with. No member shall move more than one amendment. The mover of the amendment may speak for five minutes.
- 45.5 If an amendment is lost, other amendments may be moved on the original motion but only where notice has been given. If an amendment is carried, the amended motion replaces the original motion. The amended motion then becomes the motion upon which any further amendment may be moved. This is known as the substantive motion.
- 45.6 Once all amendments are dealt with in this way, the motion or the motion as amended is then put to the final vote.

### 46. Speeches

- 46.1 Except with the consent of the Council, which will normally be granted to specified members for the debate on the adoption of the budget, the speech must not exceed:
- 46.1.1 four minutes, or
- 46.1.2 five minutes for each speech when a member is moving:
- the cabinet report;
  - an item on the agenda of an extraordinary meeting
  - an amendment;
  - a member is exercising his or her right to reply
- 46.2 If a member when seconding a motion or amendment declares an intention to do so, he or she may reserve the right to speak until later in the debate.

### 47. Right of reply

The mover of an original motion shall have a right of reply at the close of the debate on the motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original motion also has a right of reply at the close of the debate on each amendment, but must not otherwise speak on the amendment. At the end of the debate, the Mayor will call on the original mover of the motion to exercise his or her final right to reply.

## **Council Procedure Rules**

### **48 Procedure for Cabinet's budget report**

- 48.1 The Leader, or in his/her absence any other member of the Cabinet, must move a motion for the report to be received. The mover may speak for five minutes.
- 48.2 If the motion is approved, the recommendations in the report shall be moved for reception by each page number being called out.
- 48.3 If a member has submitted notice of an amendment on a particular item, the Mayor will invite him or her, or another member, to move the amendment. If the amendment is seconded, the mover of the amendment may speak for five minutes when moving the amendment. His or her seconder may also speak for four minutes or, on request, later in the debate. If the amendment is not moved, it shall be treated as having been withdrawn.
- 48.4 Only one amendment may be moved, discussed and voted on at any one time.
- 48.5 After all the amendments to the report have been dealt with in this way, the whole report shall be moved for adoption, subject to any amendments agreed at the meeting. The motion must be seconded and voted on without further discussion.

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## **APPENDIX C**

### **Overview and Scrutiny Rules – Summary of changes**

**New Rule 16 (e) relating to Conclusion of business**

**Remainder of Rule 16 re- lettered**

**Rule 16(f) now making reference to Rule 16(e)**

**Call – in and Urgency – Rule 16(m) – clarification of urgency procedures and definition of absence.**

### Overview and Scrutiny Procedure Rules

(Section revised Cl. 12 April and 17 May 2005)

#### 1. **What will be the number and arrangements for overview and scrutiny committees?**

- (a) The Council will have the overview and scrutiny committees set out in Article 6 and Table 1 and will appoint to them, as it considers appropriate from time to time. Such committees may appoint sub-committees. Overview and scrutiny committees may also be appointed by the Council for a fixed period and with terms of reference stated when they are appointed, on the expiry of which they shall cease to exist.
- (b) A meeting of the chairmen of all the overview and scrutiny committees shall be held at least once a year.

It will consider and advise the relevant officers on:

- Co-ordination of scrutiny work.
- An overall perspective on overview and scrutiny issues.
- Matters of common concern raised by members of overview and scrutiny committees.
- Which overview and scrutiny committee should deal with any particular matter where there is an overlap.

#### 2. **Who may sit on overview and scrutiny committees?**

All councillors except members of the Executive may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

#### 3. **Co-optees**

The Council will appoint non-voting co-optees as set out in Table 1.

Each overview and scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of further non-voting co-optees.

#### 4. **Education representatives**

The Education and Lifelong Learning Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) One Church of England diocese representative;
- (b) One Roman Catholic diocese representative;
- (c) Two parent governor representatives (one for senior schools and one for primary/nursery schools); and

- (d) One representative of persons who appoint foundation governors to voluntary aided Jewish schools.

The overview and scrutiny committee referred to in this paragraph is the overview and scrutiny committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive. If the overview and scrutiny committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak. The same applies to any sub-committee it establishes.

## **5. Meetings of the overview and scrutiny committees**

Each overview and scrutiny committee shall meet as frequently as it considers necessary to complete its programme of work.

Meetings will normally be held on the dates reserved for overview and scrutiny committees in the council's calendar of meetings.

Additional meetings will be arranged by the Democratic Services Manager in consultation with the chairman.

## **6. Quorum**

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **7. Who chairs overview and scrutiny committee meetings?**

Chairmen of overview and scrutiny committees will be appointed by the Council, normally at their Annual Meeting, from among the councillors sitting on the committee. Chairmen of sub-committees will be appointed by the committee that establishes them.

## **8. Work programme**

The overview and scrutiny committees/sub-committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the political group or groups forming the administration. The overview and scrutiny committees shall submit their programmes to the Council for approval.

## **9. Agenda items**

Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Democratic Services Manager that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Democratic Services Manager will ensure that it is included on the next available agenda.

The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Executive to review particular areas of Council activity.

Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the overview and scrutiny committee at their next available meeting.

**10. Policy review and development**

- (a) The role of the overview and scrutiny committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, overview and scrutiny committee or sub-committees may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses an allowance equivalent to the co-opted members financial loss allowance and travelling expenses both in accordance with the Council's Members' Allowances Scheme.

**11. Reports from overview and scrutiny committee**

- (a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an overview and scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- (c) The Council or Executive shall consider the report of the overview and scrutiny committee at their next available meeting.

**12. Making sure that overview and scrutiny reports are considered by the executive**

The agenda for the Cabinet meeting shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees referred to the Executive shall be included at this point in the agenda at their next available meeting (unless they have been considered in



the context of the executive's deliberations on a substantive item on the agenda).

Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the executive in relation to a matter where decision making power has been delegated to another individual member of the executive, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the Leader and the Democratic Services Manager. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the executive for debate before exercising his/her decision making power and responding to the report in writing to the overview and scrutiny committee. The executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within not less than 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Democratic Services Manager and he/she will attend a future meeting to respond.

**13. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the executive and overview and scrutiny committee as appropriate depending on the particular matter under consideration.

**14. Members and officers giving account**

- (a) Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the head of paid service and any Director or Head of Service or other officer where appropriate to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the Democratic Services Manager shall inform the member or officer in writing giving notice of the meeting at which he/she is required to attend. The notice will state

the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

**15. Attendance by others**

An overview and scrutiny committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

Attendance is of course entirely optional.

**16. Call in**

**Explanatory Note:**

Call in is a statutory process under Section 21 of the Local Government Act 2000. The Council's arrangements exceed the statutory requirement by subjecting all Cabinet decisions automatically to call in, not just "key" decisions as defined in Article 13.03. Call in is a "once only" process, i.e. a decision referred back to the decision taker cannot be called in again unless the decision taker substitutes a new decision that is substantially different from the original decision.

- (a) The following procedures will be the sole responsibility of the Cabinet Overview and Scrutiny Committee.

**Cabinet Decisions**

- (b) When a decision is made by the Cabinet, the decision shall be published, including where possible by electronic means, and shall be available at the Town Hall, Hendon, normally within 2 days of being made.

The Democratic Services Manager shall include those decisions on the agenda for the next regular meeting of the Cabinet Overview and Scrutiny Committee. By this process all Cabinet decisions are automatically called in by the Cabinet Overview and Scrutiny Committee. The decision shall not take effect until that Committee has met.

### Other Executive Decisions

- (c) When a decision is made by an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet or an area committee, the decision shall be published, including where possible by electronic means, and shall be available at the Town Hall, Hendon, normally within 2 days of being made.

The Democratic Services Manager shall send a copy of each decision to all members of the Cabinet Overview and Scrutiny Committee and to all Members of the Cabinet.

Each decision will bear the date of publication and will specify the date on which it will come into force and be implemented, not less than 5 working days after publication. Before the expiry of that date any member of the Committee may call in the decision by requesting the Democratic Services Manager to place the decision on the agenda for the next regular meeting of the Committee. The decision shall not take effect until that Committee has met.

If a report has more than one recommendation/decision, the member of the Cabinet Overview and Scrutiny Committee must state and specify which decision(s) he or she is calling in.

### Attendance at Meeting

- (d) For Cabinet decisions called in under Rule 16(b), Members of the Committee should inform the Democratic Services Manager by 4pm on the last working day before the committee's meeting of the specific issues on which they wish to comment and the Cabinet members to attend.

For other Executive decisions called in under Rule 16(c) a Cabinet member shall attend the Cabinet Overview and Scrutiny Committee for any item called in and set out on the agenda that is within their responsibilities.

If a Cabinet member is unable to attend the meeting in exceptional circumstances the Leader or Deputy Leader (if one is appointed) shall deal with the item.

### 16(e) Conclusion of business of Cabinet Overview & Scrutiny Committee

The Cabinet Overview & Scrutiny Committee may not transact any business after 10pm (Section 2 – Committees and Sub-Committees – para 17)

At 9.45pm, if the meeting has not yet concluded and it does not appear that it would otherwise complete its business, the Chairman, without further debate, shall immediately call for a vote on any motion, duly moved and seconded, that any remaining items on the agenda be referred back to the original decision making body or person, or that it be referred to full Council if it is considered that the decision is contrary to the policy framework or budget.

Any motion by a Member to refer a decision back must concisely articulate the Member's reasons for concern about the original decision; the motion to refer back must be voted upon immediately without further debate.

Any matters not dealt with by 10pm will be implemented forthwith.

#### Reference back

- (f) If, having considered a decision on its agenda under (b) or (c) above or a motion under (e) above, the Cabinet Overview & Scrutiny Committee is concerned about it then it may refer it back to the decision making body or person for reconsideration, setting out the nature of its concerns, or refer it to full council if they consider the decision is contrary to the policy framework or budget.

The Committee shall indicate in the case of decisions with a number of aspects the specific decision that is referred back in order that the remaining decisions may be implemented.

#### Procedure for decisions referred back

- (g) The Democratic Services Manager shall include those decisions referred to council on the agenda for the next ordinary meeting of the Council.
- (h) Where a decision is referred back, the original decision maker shall then reconsider the decision and decide whether or not to change it before adopting a final decision.
- (i) If the matter was referred to full Council and the Council does not object to a decision, which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that it is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the executive as a whole or a committee of it the Democratic Services Manager shall place it on the agenda for the next regular meeting of the executive. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- (j) If the Council does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Council meeting.

#### Executive decisions taken by area committees

- (k) Where an executive decision has been taken by an area committee then the right of call-in shall extend to any other area committee, which resolves to refer a decision, which has been made but not implemented

to the Cabinet Overview and Scrutiny Committee for consideration in accordance with these provisions. An area committee may only request the Democratic Services Manager to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by a member of the Cabinet Overview and Scrutiny Committee.

### Exceptions

- (l) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
- a decision maker can only be asked to reconsider a decision once;
  - day-to-day management and operational decisions taken by officers shall not be subject to any call-in procedure.
  - The Call-in procedure does not apply to recommendations made by the Cabinet to full Council on the budget and policy framework. However, the Cabinet Overview and Scrutiny Committee may comment on such recommendations.

### Call-in and urgency

#### **(m)**

The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. An urgent decision may be exempted from the call-in process.

A decision which, if it were not taken promptly or otherwise delayed by the call-in process, would seriously prejudice the Council's or the public's interests will be regarded as urgent.

The record of the decision shall state whether, in the opinion of the decision-making body or person, it is urgent and therefore should be exempted from call-in.

The Chairman of the Cabinet Overview & Scrutiny Committee must agree that the decision proposed is reasonable in all the circumstance and is urgent.

The Chairman of the Cabinet Overview & Scrutiny Committee must consent to the proposed decision being exempted from call-in.

In the absence of the Chairman of the Cabinet Overview & Scrutiny Committee, consent to exempt a proposed decision from call-in must be obtained:

- From the Vice-Chairman of the Cabinet Overview & Scrutiny Committee; or
- From the Head of Paid Service in the absence of both the Chairman and Vice-Chairman; or
- From the nominee of the Head of Paid Service in the absence of the Chairman, Vice-Chairman and the Head of Paid Service.

For the purposes of granting consent to exempt an urgent decision from call-in, the Head of Paid Service may, if absent, delegate the granting of that consent only to his/ her deputy or another member of the Director's Group.

For the purposes of this Rule, “absence” is deemed to mean:

- Where the individual concerned cannot be contacted by any method of communication or has indicated by formal notice to the Democratic Services Manager that they will not be contactable during a specified period.

Urgent decisions treated as exempt from call-in must be reported, with an explanation for the reasons for urgency, to the next available Council meeting.

- (o) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## 17. **The party whip**

When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee’s deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 18. **Procedure at overview and scrutiny committee meetings**

- (a) Overview and scrutiny committees and sub-committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the committee for a decision in relation to call-in of a decision (Cabinet Overview and Scrutiny Committee only);
  - (iv) responses of the executive to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (eg with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and

- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

19. **Matters within the remit of more than one overview and scrutiny committee**

Where an overview and scrutiny committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another overview and scrutiny committee, then the committee conducting the review shall invite the chairman of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

20. **Speaking at Executive meetings**

A member of the Cabinet Overview and Scrutiny Committee may speak on an item of business on the agenda for a meeting of the Cabinet or a Cabinet Committee subject to:

- 20.1 giving notice to the Leader or Chairman respectively at least 15 minutes before the start of the meeting;
- 20.2 the Leader or Chairman respectively giving his or her consent; and
- 20.3 the effective conduct of the business of the meeting not being prejudiced.

**Explanatory Note – Speaking at Executive meetings**

Although the rule says only 15 minutes notice is required, it is courteous and good practice to ensure the Leader or Chairman knows of your request in good time and is able to discuss any concerns with you. The Leader or Chairman is unlikely to withhold consent to any reasonable requests that would not interfere with the effective conduct of the business of the meeting. For example, your request could be refused if a large number of members have requested to speak on the same item.

A note sent the day before the meeting or message left on the answer phone or at an e-mail address on the day of the meeting is unlikely to reach the Leader or Chairman in time. Unless the Leader or Chairman receives the message, notice has not been given.

## **CABINET OVERVIEW AND SCRUTINY COMMITTEE**

(Amended Council 17 May 2005)

### **Membership**

11 Non-executive Councillors

### **Terms of Reference**

1. Scrutinising Cabinet and other Executive decisions as appropriate before they are implemented by means of the call-in arrangements in Rule 16 of the Overview and Scrutiny Procedure Rules.

## **RESOURCES, PERFORMANCE AND PARTNERSHIPS OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

7 Non-executive Councillors

### **Terms of Reference**

To perform the scrutiny role in relation to:

1. The overall performance, effectiveness and value for money of council services, including the planning, implementation and outcomes of all corporate improvement strategies;
2. The effectiveness of the council's partnerships in furthering the council's community and corporate plans, communication and public consultation;
3. The robustness of Best Value reviews and implementation of Best Value improvement plans;
4. The council's Information and Communications Technology systems including e-government, investment, implementation and service delivery.
5. Scrutinising the Council's annual budget process, reviewing and scrutinising its performance in relation to budget management, and assisting the Council in developing the three-year budget strategy.
6. The financial management of resources available to the council including property and asset acquisitions and disposals, reviewing the council-wide property and asset strategy and the capital investment programme.
7. The promotion of customer care and the development of community involvement with all aspects of the Council's work;
8. The fulfillment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.



Additionally, and in so far as relating to matters within its remit, to perform the overview and scrutiny role in relation to:

- The Council's leadership role in relation to diversity and inclusiveness; and
- The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety

## **FIRST CLASS EDUCATION AND CHILDREN OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

7 Non-executive Councillors  
3 voting voluntary-aided school representatives  
2 voting parent governor representatives

### **Terms of Reference**

To perform the overview and scrutiny role in relation to:

1. The Council's functions as an education authority including raising and enhancing standards in schools, services to schools, Early Years Provision and the Youth Service for clients up to the age of 19;
2. The provision of opportunities for ongoing education, skills development and training including adult education and literacy;
3. Services for children, young people and their families including Children's Social Services, the Council's corporate parenting role, the Youth Offending Team and the Youth Justice Plan.
4. Local NHS services and health-related issues which impact upon the health of Barnet children and young people aged up to 18, in accordance with the powers granted under Section 7 of the Health and Social Care Act 2001.
5. Cultural and recreational services including sports and leisure facilities, libraries, arts, museums, countryside sites and public events;
6. Any other:
  - non-educational issues relevant to supporting vulnerable children and young people in Barnet or improving their life chances, directly or in partnership with others;
  - issues relevant to the provision and development of first class education and lifelong learning in Barnet, directly or in partnership with others;
  - issues relevant to the promotion and development of culture, recreation, sport and tourism, directly or in partnership with others.

Additionally, and in so far as relating to matters within its remit, to perform the overview and scrutiny role in relation to:

- The Council's leadership role in relation to diversity and inclusiveness; and

- The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

## **CLEANER, GREENER, TRANSPORT AND DEVELOPMENT OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

8 Non-executive Councillors

### **Terms of Reference**

To perform the overview and scrutiny role in relation to:

1. Development and management of the environment including the Council's functions in relation to roads and pavements, refuse and recycling, street cleansing, graffiti removal, street lighting, waterways, green spaces, parks trees and allotments;
2. Transportation services and transport planning;
3. The Council's environmental health and consumer protection functions;
4. The Council's role in relation to regeneration and development including economic and strategic development, building and property construction, town centre regeneration and associated matters;
5. The functions of the Council as local planning authority including planning policy and development control;
6. The Council's property, design and building control services;
7. The Unitary Development Plan (UDP), Section.106 Agreements and Local Development Frameworks.
8. Any other issues relevant to the promotion of a cleaner greener Barnet, directly or in partnership with others.

Additionally, and in so far as relating to matters within its remit, to perform the overview and scrutiny role in relation to:

- The Council's leadership role in relation to diversity and inclusiveness; and
- The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

## **SUPPORTING THE VULNERABLE IN OUR COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

7 Non-executive Councillors

### **Terms of Reference:**

To perform the overview and scrutiny role in relation to:

1. Community care services for older people and vulnerable adults including those who have physical disabilities, sensory impairment, learning disabilities, mental health needs or other special needs, and such preventative, advice and advocacy (including welfare rights), transport, respite and other services as may be needed to help people remain independent in their own homes;
2. The promotion of effective partnerships with health and other agencies in the public, private and voluntary sectors to support the above.
3. Local NHS services and health-related issues which impact upon the health of adult Barnet residents aged 18 and over, in accordance with the powers granted under section 7 of the Health and Social Care Act 2001.
4. Any other issues relevant to supporting vulnerable adults in the community or promoting good health in Barnet, directly or in partnership with others.

Additionally, and in so far as relating to matters within its remit, to perform the overview and scrutiny role in relation to:

- The Council's leadership role in relation to diversity and inclusiveness; and
- The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

## **TACKLING CRIME AND HOUSING OVERVIEW AND SCRUTINY COMMITTEE**

### **Membership**

7 Non-executive Councillors

2 Non-voting co-opted tenant representatives appointed by Barnet Housing Consultative Panel

### **Terms of Reference**

To perform the overview and scrutiny role in relation to:

1. The supply and development of social housing in the borough with associated environmental, neighbourhood and social facilities, in partnership with other housing providers;

2. The assessment of housing need, allocation of housing resources, provision of services for people who are homeless and prevention of homelessness, including the role of the public, voluntary and private housing sectors;
3. The arm's length management, maintenance and improvement of the Council's housing stock by Barnet Homes, in consultation with tenants and leaseholders;
4. The operation of the housing benefits service;
5. The development, promotion and management of all aspects of community safety, including the various roles of the council, the police and other public agencies, the business and voluntary sectors and the wider community;
6. Any other issues relevant to the Council's functions as a housing authority or tackling crime and anti-social behaviour in the borough, directly and in partnership with others.

Additionally, and in so far as relating to matters within its remit, to perform the overview and scrutiny role in relation to:

- The Council's leadership role in relation to diversity and inclusiveness; and
- The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

## APPENDIX D

### Access to Information Procedure Rules

(Revised May 2006)

#### References:

Sections 100A-H and Schedule 12A Local Government Act 1972

**Local Government ( Access to Information) Act 1985**

Section 22 of the Local Government Act 2000

Chapter 7, DETR Guidance

Local Government (Access to Information) (Variation) Order 2006

*There is a general right to access recorded information (such as e-mails, meeting minutes, research or reports) held by the Council. In all cases, the Council will endeavour to supply the requested information promptly, although some information could be exempt from disclosure. These rules relate specifically to information concerning meetings of the Council*

#### 1. SCOPE

These rules apply to all meetings of the Council, overview and scrutiny committees, area committees, the Standards Committee and regulatory committees and public meetings of the executive (together called meetings).

#### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### 3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Mayor or Chairman may warn him/her. If he/she continues the interruption and a warning has previously been given, the Mayor or chairman may order his/her removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Mayor or Chairman may order that part to be cleared.
- 3.4 If the Mayor or Chairman considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Mayor/Chairman are in addition to any other power vested in him/her.
- 3.6 **The public shall be excluded from any meeting during an item of business whenever confidential or exempt information is likely to be disclosed.**

#### 4. **NOTICES OF MEETING**

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Town Hall, Hendon, NW4 4BG (the designated office) and its website at [www.barnet.gov.uk](http://www.barnet.gov.uk).

#### 5. **ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports for meetings open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

#### 6. **SUPPLY OF COPIES**

The Council **can also** supply copies of:

- (a) any agenda reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Democratic Services Manager thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

#### 7. **ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

#### 8. **BACKGROUND PAPERS**

##### 8.1 **List of background papers**

The Democratic Services Manager will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which **he considers discloses** exempt or confidential information, **the categories which are set out in paragraph 10.4**, and in respect of executive reports, the advice of a political advisor.

**These documents are also accessible on the Council's website.**

## 8.2 **Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## 9. **SUMMARY OF PUBLIC'S RIGHTS**

Rules 3 – 8 constitute the written summary of the public's rights to attend meetings and to inspect and copy documents.

## 10. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### 10.1 **Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 10.2 **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 10.3 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by **any enactment or Court Order**.






1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### QUALIFICATIONS

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under –
  - (a) the Companies Act 1985
  - (b) the Friendly Societies Act 1974
  - (c) the Friendly Societies Act 1992
  - (d) the Industrial and Provident Societies Acts 1965 to 1978
  - (e) the Building Societies Act 1986
  - (f) the Charities Act 1993.
9. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General

Regulations 1992.

10. Information which –

- (a) falls within any of paragraphs 1 to 7 above; and
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Definitions:

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matter” means –

- (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- (b) any dispute about a matter falling within paragraph (a) above;

and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

### Explanatory Note Box

Examples of the types of information that will NOT be disclosed to the public either within committee documents or at the meetings are as follows:

- Where the information is forbidden to be disclosed by a Government Department or by a provision of the law or by court order e.g child protection records, information the subject of court proceedings etc
- Where the information discloses any personal information about an individual that would tend to breach his or her privacy, unless he or she has consented to its disclosure e.g names, addresses, telephone numbers, information about the family, finances, health, religion etc

- Where the information is commercially sensitive and is likely to disclose matters relating to the financial or business affairs of an particular person including the Council e.g details of financial and business viability, procurement related information, research and plans relating to a potential new product or service, product sales forecast information, strategic business plans, information relating to the preparation of a competitive bid, marketing plans to promote a new or existing product, information provided in respect of an application for a licence or as a requirement of a licence condition or under a regulatory regime etc
- Any information relating to employment details between individual employees/office holders and the Council including any proposed changes e.g contracts of employment, salary details, sickness records, expense claims, mileage claims, disciplinary records, other details on a personal file, negotiations on contractual terms etc. General employment information would be NON EXEMPT if it is general and not attributable to a particular individual or individuals.
- Legal professional privilege e.g confidential advice received by the Council from its legal advisers (internal, external or by Counsel) for the purpose of providing legal advice or assistance as to the rights or obligations of the Council or legal advice that comes into existence where there is a reasonable prospect of litigation or is being contemplated or in existence
- Information which reveals that the authority proposes (a) to give under any enactment a notice or by virtue of which requirements are imposed on a person or (b) to make an order or direction under any enactment . This relates to information relating to the Council's quasi judicial functions such as the Council's proposals to take action or serve notice or make an order or direction under its planning, environmental health, trading standards, licensing, building control, health and safety and other regulatory functions
- Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime e.g investigation files, surveillance evidence and authorisations, witness statements, facilities records, telephone records etc

In all cases, an assessment should still be made by the Council that, the public interest in withholding the information outweighs the public interest in disclosing it.

## 11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Borough Solicitor thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- 11.2 Where a matter is on the agenda for consideration after the exclusion of the press and public, any member of the body may request that it be considered in their presence.
- 11.3 The Mayor (for the Council) or Chairman (for other bodies) shall then either:
- 11.3.1 allow the matter to be considered in the presence of the press and public; or

11.3.2 request the meeting to decide the member's request. The press and public must be excluded from the meeting whilst the meeting considers and votes on whether the matter should be considered in their presence. Arrangements will be made to recall the press and public immediately should the meeting agree to the request.

11.4 If the matter is considered in public, any related report will also become available to the public.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the executive and its committees.

If the executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

If the executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose principal purpose is for officers to brief members.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice (called here a forward plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **14. THE FORWARD PLAN**

### **14.1 Period of forward plan**

Forward plans will be prepared by the leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **14.2 Contents of forward plan**

The forward plan will contain matters which the leader has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, individual members of the executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Democratic Services Manager will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices, **and made available on the Council's website;**
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;

- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices, **and on the Council's website.**

Exempt information need not be included in a forward plan and confidential information cannot be included.

## 15. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Democratic Services Manager has informed the Chairman of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (c) the Democratic Services Manager has made copies of that notice available to the public at the offices of the Council, **and on the Council's website;** and
- (d) at least 3 clear days have elapsed since the Democratic Services Manager complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## 16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant overview and scrutiny committee, or if the Chairman of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

## 17. **REPORT TO COUNCIL**

### 17.1 **When an overview and scrutiny committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chairman, or the Mayor/Deputy Mayor under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Democratic Services Manager, who shall require such a report on behalf of the committee when so requested by the chairman or any 5 members of the Cabinet Overview and Scrutiny Committee and the Chairman or any 3 members of any other overview and scrutiny committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

#### **17.2 Executive's report to Council**

The executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

#### **17.3 Quarterly reports on special urgency decisions**

In any event the leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decision were taken.

### **18. RECORD OF DECISIONS**

After any meeting of the executive or any of its committees, whether held in public or private, the Democratic Services Manager or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

### **19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## 20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE

Members of the executive or its committees will be entitled to receive three clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

Notice only of private meetings of the Executive shall also be published by the Democratic Services Manager at the Town Hall and on the Intranet.

## 21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

- (a) All members of the executive will be served notice of all private meetings of the committees of the executive, whether or not they are members of that committee.
- (b) All members of the executive are entitled to attend a private meeting of any committee of the executive.
- (c) Members other than executive members will not be entitled to attend private meetings of the executive, and its committees.
- (d) The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the executive and its committees. The executive may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.
- (e) The Democratic Services Manager shall arrange for an officer to attend private executive meetings to record and publish the decisions. In the absence of such officer this will be the responsibility of the chairman of the meeting.

There is no requirement for the executive to meet in the presence of the officers named in paragraphs (d) and (e).

## 22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

### 22.1 Reports intended to be taken into account

Where an individual member of the executive receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

### 22.2 Provision of copies of reports to overview and scrutiny committees

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chairman of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.

### 22.3 Record of individual decision



As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the Democratic Services Manager to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## **23. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the executive or its committees
- (b) any decision taken by an individual member of the executive.

### **23.2 Limit on rights**

An overview and scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS TO EXECUTIVE INFORMATION**

### **24.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information as set out in paragraph 10.4 above, save that if the information falls within paragraph 3 (information relating to the financial or business affairs of any particular person) they shall be entitled to inspect the document except to the extent that it relates to terms proposed by or the Council in the course of negotiations for a

contract or would reveal the Council's proposals to give notice or make an order or direction under any enactment; or

(b) it contains the advice of a political adviser.

## 24.2 **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive or its committee which relates to any key decision unless paragraph 24.1 (a) or (b) above applies.

## 24.3 **Nature of rights**

These rights of a member are additional to any other right he/she may have.

## 25. **MEMBERS' OTHER RIGHTS TO INFORMATION**

25.1 A member of the Council may, for the purposes of his or her duty as a member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Democratic Services Manager and, if available, copies will be supplied upon request.

25.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he or she:

25.2.1 is professionally interested; or

25.2.2 has a **personal and prejudicial interest within the meaning of the Local Code of Conduct for Members as set out in this Constitution.**

25.3 This shall not preclude the Borough Solicitor from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under the Freedom of Information Act.

25.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

### Explanatory Note

#### Rights to Information

Members have always had a wider common law and statutory right to information than members of the general public. This is being extended by these proposals so that a "right to know" does not need to be demonstrated by a member to inspect relevant papers relating to the Council's work subject

to the exclusions set out.

#### Finance Information

Members also have a legal right under the Local Government Finance Act 1982 to inspect “books, deeds, contracts, bills, vouchers and receipts”.

Requests for information should be directed to the Director or **Chief Officer** concerned. If a member is unhappy with a particular **Director** or **Chief Officer’s** decision, the Chief Executive will review the **Director’s** decision. If the member is still unhappy, the request for the information will be put before the relevant committee who may decide.

## **APPENDIX E**

### **Financial Regulations– Summary of changes**

**A number of formatting issues throughout.**

#### **Amendments/Additions to Rules**

**Rules 1.4, 1.5, 1.6, 2.3, 2.4, 2.5,**

**Alternative Budget Motions, 2.9, 2.10, 2.11,**

**Budget Monitoring 3.4, 3.5, 3.6,**

**Revenue Monitoring 3.7, 3.8, 3.9,**

**Capital Monitoring 3.10, 3.11, 3.12,**

**Central Contingency renumbering and amendments to 3.15  
and 3.16,**

**Reporting to Members 3.17 – 3.19**

#### **Budget Monitoring (Heads of Service)**

**4.1, additional bullet in 4.3, 4.4, 4.6, 4.9, 4.10, 4.11,**

#### **Closing of Accounts**

**5.3, 5.4, 5.5**

#### **Treasury Management Framework**

**6.5**

#### **Pension Fund Management**

**New Section at paragraph 7**

### **Financial Regulations**

Constitution Review Committee – 23 March 2006

Financial Regulations govern the way the council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts – setting out the responsibilities of Council, Cabinet (and Cabinet Committees), the Chief Finance Officer and other Heads of Service. These aspects are set out in Part 1 (Financial Management).

Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised. These aspects are set out in Part 2 (Financial Administration).

Financial Regulations are supported by other elements of the Council Constitution, in particular:-

- Scheme of Delegation
- Budget & Policy Framework Procedure Rules
- Contract Procedure Rules
- Rules on the Disposal of Land & Property.

## Part 1 – Financial Management

- 1 Financial Forward Planning
- 2 Annual Budget Setting
- 3 Corporate Budget Management & Monitoring Arrangements
  - Latest Approved Budget
  - Budget Monitoring
  - Central Contingency
  - Reporting to Members
  - Authorisation of Non-Budgeted Expenditure
- 4 Further Responsibilities of Heads of Service
  - Budget Monitoring
  - External Funding
  - Full Year Effects
  - Impact on Other Services
  - Partnership Working
  - General Requirements
- 5 Closing of Accounts & Production of the Statement of Accounts
- 6 Treasury Management Framework
- 7 Pension Fund Investment Management

### 1 MEDIUM TERM FINANCIAL STRATEGY & FINANCIAL FORWARD PLANNING

- 1.1 The Chief Finance Officer, in consultation with the Cabinet Member with responsibility for Resources, will maintain a Financial Forward Plan that covers a period of at least four financial years, including the current financial year.
- 1.2 The Financial Forward Plan will be produced in line with the Medium Term Financial Strategy approved by Cabinet, which sets out the Executive's approach on a range of issues, including:-
  - the way in which corporate service priorities are considered as part of the council's capital and revenue budget processes;
  - the level of balances and reserves (having taken account of advice from the Chief Finance Officer);
  - the approach to bidding for external funding;
  - the setting of fees and charges;
  - the management of financial risks;

- the recovery of debt.
- 1.3 The Medium Term Financial Strategy will normally be approved by Cabinet at the start of each four year municipal term, and be updated annually or sooner if there is a need to respond to significant changes in resource and/or expenditure assumptions.
- 1.4 The Financial Forward Plan will be reported in conjunction with the annual budget, council tax and rent proposals to Cabinet and Council before 11 March of the preceding financial year. Further updates on the Financial Forward Plan may be reported during the year.
- 1.5 The Financial Forward Plan will cover revenue and capital budgets, and will highlight how resources are being re-directed to address Corporate Plan priorities.
- 1.6 In respect to resources, the Financial Forward Plan will take account of the following:-
- forecasts of formula and specific grants;
  - increases in fees and charges, and the introduction of new charges;
  - interest earnings;
  - levels of reserves and balances;
  - increased income from rents and council tax;
  - capital receipts and grants.
- 1.5 In respect to expenditure, the Financial Forward Plan will take account of the following:-
- full year effects of previous decisions;
  - changes in responsibility arising from new or amended regulations, net of increased income from new fees and charges;
  - re-direction of resources to achieving Corporate Plan priorities and targets;
  - forecast changes in service demand;
  - forecasts of inflation, pay awards and interest rates;
  - efficiency savings;
  - planned service reductions;
  - prudential borrowing;
  - financial risks.
- 1.6 In that the Financial Forward Plan has a four year horizon it is to be expected that figures in later years will often be preliminary estimates and/or aspirations of future decisions and changes in council policy..

## **2. ANNUAL BUDGET SETTING**

- 2.1 The Executive will publish a draft budget and performance management plans for consultation, usually after the Provisional Local Government Finance Settlement has been announced. Arrangements for budget consultation will be determined by the Executive.
- 2.2 The Chief Finance Officer will set the council taxbase for tax-setting purposes before 31 January of the preceding financial year, and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer will, at the same time, notify all Council Members.
- 2.3 The Executive will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in February, following announcement of the Final Local Government Finance Settlement.
- 2.4 The Executive's recommendations to Council must be made in time for Council to set the capital and revenue budget and council tax before 11 March of the preceding financial year.
- 2.5 The budget and capital programme that the Executive recommends to Council must be based on reasonable estimates of expenditure and income, and take account of:-
- outturn forecasts for the current year;
  - guidance from the Chief Finance Officer on the appropriate level of reserves, balances and contingencies;
  - financial risks associated with proposed budget developments, reductions and ongoing projects;
  - forecasts of capital receipts;
  - affordability of prudential borrowing over the period of the council's financial forward plan;
  - recommendations from the external auditor on matters such as the level of reserves and provisions.
- 2.6 The budget recommended by the Executive will incorporate the latest projection of income from fees and charges.
- 2.7 Heads of Service may approve changes to fees and charges annually where the change is broadly in line with inflation. The date for annual increases need not be 1 April.
- 2.8 Cabinet Resources Committee may approve changes to fees and charges that are significantly different from inflation, the introduction of new fees and charges, and changes to fees and charges outside the normal annual cycle.



### Alternative Budget Motions

- 2.9 Alternative budget motions must be validated by the Chief Finance Officer before they are accepted as a valid budget motion. This is essential since if an alternative budget motion is approved, the Chief Finance Officer will need to amend the council tax bills immediately following the Council meeting and Cabinet and officers will be required to implement the detailed budget proposals.
- 2.10 The alternative budget motion must set out the appropriate changes to Cabinet's recommendations as they affect the budget for the forthcoming year and any element of the Financial Forward Plan (e.g. balances, full year effects, council tax levels). The Chief Finance Officer may also require further information to be included if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.
- 2.11 Any Member proposing to put an alternative budget motion to Council is responsible for ensuring it is received by the Democratic Services Manager in line with the deadline set out in Part 4, Section 1 of the Constitution. It is also their responsibility to ensure they give the Chief Finance Officer sufficient time to fully validate their alternative budget proposals.

## **BUDGET MANAGEMENT & MONITORING**

### Latest Approved Budget

- 3.1 The latest approved budget for a service or capital project is the budget determined by Council prior to the start of the year, as amended subsequently by approved variations throughout the year.
- 3.2 The Chief Finance Officer is responsible for maintaining the latest approved budget.
- 3.3 It is envisaged that the Scheme of Virement for revenue and capital budgets will be determined by the Leader as part of the scheme of delegation. If this is not done, the Chief Finance Officer must determine a scheme in consultation with the Cabinet Member for Resources.

### Budget Monitoring – General

- 3.4 Heads of Service should ensure that their cost centre managers do not enter into commitments before satisfying themselves there is sufficient budget provision. Heads of Service have no authority to overspend revenue or capital budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.
- 3.5 Heads of Service are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets, which must in the first instance be returned to central contingencies.

- 3.6 Heads of Service must notify the Chief Finance Officer of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income or capital resources have been identified.

#### Budget Monitoring – Revenue

- 3.7 Having notified the Chief Finance Officer of a forecast revenue budget overspend, the Head of Service must submit proposals to the Chief Finance Officer for offsetting the forecast overspend, together with an assessment of the impact these corrective actions will have on service delivery and performance targets. Approval to these budget variations will be in line with the Scheme of Virement (see 3.3).
- 3.8 When notifying the Chief Finance Officer of such a situation, Heads of Service must advise if the problem relates solely to the current financial year or needs to be addressed within the financial forward plan as well.
- 3.9 Some services or projects within the council's budget and capital programme may be wholly or part funded by time-limited external funding. As soon as the possibility of expenditure slipping past the funding deadline is forecast, the cost centre / project manager must notify the Chief Finance Officer immediately, and provide options for reducing expenditure and/or identifying alternative funding. It should not be assumed that the loss of external funding arising from expenditure slipping will be met from central resources.

#### Budget Monitoring – Capital

- 3.10 Forecast overspends on capital projects must be communicated to the Chief Finance Officer immediately, and before commitments are entered into. These forecasts should identify overspends against budget for the current financial year and the total budget for the project.
- 3.11 Having notified the Chief Finance Officer, the Head of Service must submit options to the Chief Finance Officer for offsetting the forecast overspend (e.g by reducing the project specification, or budget for other projects) and/or identifying additional funding.
- 3.12 Due to the uncertainty around the generation and timing of capital receipts, and the impact that delays could have on the level of prudential borrowing, project managers must obtain the prior approval of the Chief Finance Officer before entering into any individual capital commitment over £500,000.

#### Central Contingency

- 3.13 The Chief Finance Officer will determine which budget developments are to be held within the central contingency.
- 3.14 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer, in consultation with the Cabinet Member for Resources, following the receipt from a Head of Service of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect, the contingency allocation must be approved by Cabinet Resources Committee.

- 3.15 Allocations from the central contingency for unplanned expenditure up to £250,000, including proposals to utilise underspends previously generated within the service, will be approved by the Chief Finance Officer in consultation with the Cabinet Member with responsibility for Resources.
- 3.16 Allocations for unplanned expenditure over £250,000 must be approved by Cabinet Resources Committee.

#### Reporting to Members

- 3.17 The Chief Finance Officer will report regularly to Cabinet Resources Committee on the revenue and capital budgets and prudential borrowing indicators.
- 3.18 Reports on the revenue budget will normally include:-
- a revised forecast outturn;
  - progress in achieving budgeted savings;
  - advice from the Chief Finance Officer on whether action is required to address any diminution in reserves and, if necessary, proposals and/or options for action that needs to be taken.
- 3.19 These reports will make recommendations for varying the approved budget (revenue and capital) in the following circumstances:-
- allocations from the central contingency for unplanned expenditure over £250,000, or for planned expenditure where there are significant full year effects;
  - underspends and windfall benefits returned to the centre;
  - increases in service revenue budgets where overspends are considered unavoidable and cannot be contained within the overall budget managed by a Head of Service;
  - variations in capital project budgets.

#### Authorisation of Non-Budgeted Expenditure

- 3.20 In cases of urgency or emergency, the Chief Executive may approve revenue or capital expenditure in excess of the latest approved budget.
- 3.21 The Chief Finance Officer may approve revenue or capital expenditure not provided for within the latest approved budget if satisfied that:-
- the expenditure is wholly reimbursable to the Council; or
  - compensatory savings have been identified;

and

- there are no significant full year effects.

In all circumstances, the expenditure must be consistent with the Corporate Plan and performance management plans.

#### **4. FURTHER RESPONSIBILITIES OF HEADS OF SERVICE**

##### Budget Monitoring

4.1 Heads of Service must establish arrangements for managing revenue and capital budgets within their services. These arrangements must include:-

- schemes of delegation, which set out the authority that cost centre managers and capital project managers have for taking budget decisions (within the corporate scheme of virement);
- a budget monitoring framework that reports back to service management teams, enabling Heads of Service to provide the Chief Finance Officer with a report on their revenue and capital budgets in accordance with the timetable he/she sets;
- details of who has authority to take decisions in respect to the entire service budget in their absence.

##### External Funding

4.2 External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals.

4.3 Heads of Service must provide the Chief Finance Officer with details of all bids for external funding. In particular, the following information must be provided:-

- how the bid supports achievement of Corporate Plan targets;
- whether the bid is for capital and/or revenue funding;
- revenue and capital matched funding contributions required from the council, and how these will be identified;
- revenue and capital matched funding contributions required from other organisations and individuals, how these amounts will be secured, and the risks associated with them;
- an 'exit strategy', which sets out how budgets will be adjusted after the grant expires;
- where the bid is for revenue funding:-

- whether this is to support existing levels of activity or enhanced / new activities;
- proposals for reducing the activity OR incorporating it in the base budget once the external funding is exhausted;
- where the bid is for capital funding :-
  - whether an asset will be created, and if so, how this fits in with the council's Asset Management Strategy;
  - how the ongoing cost of maintaining the asset will be funded;
  - whether the asset can / will be disposed of at a later date.

4.4 Heads of Service must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Finance Officer. Decisions to proceed ahead of confirming external funding will be taken after assessing all relevant risks. The Chief Finance has the right to refer the decision to the Cabinet Resources Committee or Cabinet Member for Resources.

4.5 Heads of Service must advise the Chief Finance Officer of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and must in the first instance be returned to the central contingency. Where the amount notified is less than the budget, the Head of Service must notify the Chief Finance Officer of options for containing any potential overspend.

4.6 Heads of Service must ensure that all conditions associated with external funding are met and that information required to complete grant and subsidy claims is provided on time.

#### Full Year Effects

4.7 In preparing any estimates of expenditure and income, Heads of Service must give proper consideration to full year effects.

#### Impact on Other Services

4.8 Before a Head of Service makes a decision that could affect the budget of another Head of Service they must first consult with the other Head(s) of Service.

#### Statement of Internal Control

4.9 Heads of Service must support the work on corporate risk management led by the Director of Resources, contributing to the production of the annual Statement of Internal Control that has to be published alongside the Statement of Accounts.

#### Partnership Working

- 4.10 Before entering into a partnership with another organisation that involves pooling some of the council's revenue and/or capital budgets, the Head of Service must ensure that adequate financial controls are in place. A financial risk assessment must also be prepared and monitored over time.

#### General Requirements

- 4.11 Heads of Service must consult the Chief Finance Officer at an early stage on any current or future matter or decision that has financial implications that are not incorporated in the Financial Forward Plan or could impact on the Medium Term Financial Strategy.
- 4.12 Heads of Service must adhere to guidance issued by the Director of Resources and Chief Finance Officer in respect to financial forward planning, budget setting, budget monitoring and closing of the accounts.

### **5. CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS**

- 5.1 The Chief Finance Officer is responsible for making arrangements for closing the accounts and producing the annual Statement of Accounts, as well as all matters relating to their audit and public inspection.
- 5.2 The Statement of Accounts will be prepared in accordance with the CIPFA Code of Accounting Practice, which includes the deadline for their production and the requirement to include a Statement on Internal Control (SIC).
- 5.3 Heads of Service must provide on time any information the Chief Finance Officer requires to close the accounts and complete all grant and subsidy claims.
- 5.4 In closing the accounts, the Chief Finance Officer may amend the originally approved funding of services and projects if this is to the council's financial benefit.
- 5.5 The Annual Audit Letter includes the external auditor's report and opinion on the audit of the accounts, as well as comments and recommendations on the council's financial standing, the legality of financial transactions and internal control. This will be reported each year to Cabinet and the Audit Committee, together with an appropriate action plan.

### **6. TREASURY MANAGEMENT FRAMEWORK**

- 6.1 The Council adopts the key recommendations contained in "The Prudential Code for Capital Finance in Local Authorities - Interim Guidance & Notes Supplement" (CIPFA, February 2004), "Treasury Management in the Public Services: Code of Practice" (CIPFA, 2001) and any subsequent recommended good practice by CIPFA.
- 6.2 Cabinet Resources Committee will create and maintain a Treasury Management Policy Statement (TMPS), stating the policies and objectives of its treasury management activities.

- 6.3 The Chief Finance Officer will create and maintain suitable Treasury Management Practices (TMPs), setting out the manner in which the Authority will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 6.4 Cabinet Resources Committee will receive reports on its treasury management policies, practices and activities, including an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the TMPs. These reports will incorporate the prudential borrowing limits and performance indicators.
- 6.5 The Chief Finance Officer has the delegated authority to undertake long term borrowing on behalf of the Authority and will issue a Delegated Powers Report immediately after this power is exercised to inform Members.

## **7. PENSION FUND MANAGEMENT**

7.1 The Chief Finance Officer is responsible for:-

- appointing pension fund investment managers;
- appointing an independent investment advisor;
- producing and publishing a Funding Strategy Statement;
- recommending Statement of Investment Principles to the General Functions Committee, after consulting first with the Pension Fund Advisory Panel;
- appointing actuaries.

7.2 The Pensions Manager is responsible for:-

- approving early payment of deferred benefits under regulation 31;
- exercising discretion not to actuarially reduce deferred benefits paid early under regulation 31, on compassionate grounds or financial hardship grounds;
- issuing a certificate of protection in pension benefits without an application from the member (Regulation 23 of the 1997 Regulations);
- determining that a member who has opted out of the Scheme on more than one occasion should be able to rejoin the Scheme (Regulation 7 of the 1997 Regulations);
- exercising the power to accept late applications (made more than 30 days after return to work or, if does not return to work, 30 days after the date of leaving) from a member who wishes to pay optional contributions for a period of absence (Regulation 18 of the 1997 Regulations);

- informing a member, who is entitled to a pension or retirement grant under two or more provisions, which provision shall apply (Regulation 34 of the 1997 Regulations);
- determining that late applications to convert scheme AVCs into a membership credit will be accepted provided such a late claim is not made within one year of attaining NRD or six months after leaving service whichever is the later (Regulation 66 of the 1997 Regulations);
- determining that any request for the inwards transfer of pension rights made more than 12 months after the member joined the Scheme will only be accepted with the Employer's permission (Regulation 121 of the 1997 Regulations);
- exercising absolute discretion in determining the recipient(s) of any death grant payable from the Scheme (Regulation 38 of the 1997 Regulations);
- deciding whether to treat education or training as continuous despite a break (Regulation 44 of the 1997 Regulations), for the purpose of determining eligibility for a child's pension.



## **Part 2 – Financial Administration**

- 1 Introduction
- 2 Accounting
- 3 Internal Audit
- 4 Corporate Anti-Fraud Team
- 5 Banking Arrangements
- 6 Security of Assets
- 7 Imprest Accounts
- 8 Income
- 9 Insurance
- 10 Investments, Borrowing, Capital Financing & Trust Accounts
- 11 Ordering of Goods, Works & Services
- 12 Payment of Accounts
- 13 Salaries, Wages & Pensions
- 14 Travelling, Subsistence, & Financial Loss Allowance
- 15 Amenity & Unofficial Funds

### **1. INTRODUCTION**

- 1.1 These Financial Management Rules apply to all financial transactions of the Council with the exception of schools with delegated budgets, which have their own set of financial regulations.
- 1.2 They are designed to safeguard the interests of the Council and individual officers by setting out clear procedures to be followed under the various sections.
- 1.3 This should be used in conjunction with other points of the constitution, legal requirements and other codes of practice which may be issued under 1.5 of this section.
- 1.4 The Chief Finance Officer or Chief Internal Auditor, after discussion with the relevant Chief Officer, may report any breach of this Code to the Cabinet Meeting or Cabinet Resources Committee.
- 1.5 These Financial Management Rules may be supplemented at any time by other codes of practice or instructions issued by the Chief Finance Officer.

## **2. ACCOUNTING**

- 2.1 All accounting arrangements across the council shall be in a manner approved by the Chief Finance Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and the Audit Commission.
- 2.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.

## **3. INTERNAL AUDIT**

- 3.1 Under the Accounts and Audit Regulations 1996 the Council has a statutory obligation to have an adequate and effective system of internal audit. The Chief Internal Auditor has the delegated authority for providing and maintaining this service.

### Objective & Scope

- 3.2 The Internal Audit Service is an independent, objective assurance and consulting activity designed to add value and improve the council's operations. It helps the council achieve its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management control and governance processes.
- 3.3 The objective of internal auditing is to assist officers and Members in the effective discharge of their responsibilities. To this end, internal auditing furnishes them with assurance, analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed. This objective includes promoting effective control at reasonable cost.
- 3.4 The scope of internal auditing encompasses the examination and evaluation of the adequacy and effectiveness of the organisation's system of internal control and the quality of performance in carrying out assigned responsibilities. Internal auditors:-
- review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;
  - review the systems established to ensure compliance with those policies, plans, procedures, laws, regulations and contracts which could have a significant impact on operations and reports, and should determine whether the organisation is in compliance;
  - review the means of safeguarding assets and, as appropriate, verify the existence of such assets.
  - appraise the economy and efficiency with which resources are employed.
  - review operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned.

### Independence

- 3.5 Internal Audit is independent of the activities audited. Internal Auditors are independent when they can carry out their work freely and objectively. Independence permits internal auditors to render the impartial and unbiased judgements essential to the proper conduct of audits. It is achieved through organisational status and objectivity.
- 3.6 The organisational status of the internal auditing service permits the accomplishment of its audit responsibilities. The Chief Internal Auditor is responsible to the Chief Finance Officer, Chief Executive and Audit & Resources Overview & Scrutiny Committee, thereby promoting independence and ensuring a broad audit coverage, adequate consideration of audit reports, and appropriate action on audit recommendations.
- 3.7 Objectivity is an independent mental attitude which internal auditors maintain in performing audits. Internal auditors do not subordinate their judgement on audit matters to that of others. Drafting procedures for systems, and designing, installing and operating systems are not audit functions. Performing such activities impairs audit objectivity.

### Responsibility & Authority

- 3.8 Internal Audit is an integral part of the organisation and functions under the policies established by management and the council.
- 3.9 The purpose, scope, authority and responsibility of the internal auditing service is defined in a formal charter. The charter makes clear the independence of the internal auditing service and emphasises that it must not be restricted when carrying out its responsibilities.
- 3.10 Any suspected irregularity involving any asset, or the exercise of any function, of the Council must be reported by the appropriate Chief Officer to the Chief Internal Auditor to inform the overall assurance that can be delivered. The primary responsibility for the prevention, detection and investigation of fraud lies with line management.
- 3.11 The Chief Internal Auditor and Chief Finance Officer, or authorised representative, shall have authority to:-
- enter any Council land or premises;
  - have access to all records, documents, correspondence and assets of the Council;
  - receive such explanations as are necessary concerning any matter under examination, and
  - require any employee of the Council to produce cash, stores or any other Council property under his or her control
- 3.12 The Council's Chief Officers shall have regard to the principles of risk management, and to the Council's risk management policy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the council's arrangements for risk management and to produce an Annual Statement of Internal Control

#### **4. Corporate Anti-Fraud Team**

Under Section 151 of the Local Government Act 1985 the Council has a statutory obligation to ensure the protection of public funds and to have an effective system of prevention and detection of fraud and corruption. The Head of the Corporate Anti-Fraud Team (CAFT) has the delegated authority for providing and maintaining this service.

##### Objective & Scope

The CAFT is an independent, objective activity designed to add value and improve the council's operations. It helps the council achieve its objectives by bringing a systematic, disciplined approach to investigation evaluating and improving the effectiveness of fraud prevention and detection and the subsequent prosecution of individuals and organisations where appropriate.

The objective of the CAFT is to assist officers and Members in the effective discharge of their responsibilities. To this end, the CAFT furnishes them with assurance, analysis, appraisals, recommendations, counsel, and information concerning the activities it is required to become involved with. The objective includes promoting fraud awareness across the authority.

The scope of the CAFT encompasses both the investigation and examination of the effectiveness of the council's systems of fraud control when subject to breach. In carrying out assigned responsibilities, Investigation Officers:-

- review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;
- provide protocols and systems which ensure accurate reporting of any such fraud (including "Whistleblowing" and a "Fraud Hotline"), create and promote policies, plans, procedures, law, regulations and guidance which have a significant impact on the organisation;
- provide an effective, efficient and value for money investigation service;
- provide the organisation, its employees and business partners with a comprehensive guide in areas such as money laundering and other legislation relating to the proceeds of crime.

##### Independence

CAFT officers are independent when they can carry out their work so act freely and objectively. Independence permits Investigators to render the impartial and unbiased judgements essential to the proper investigation and conclusion of fraud.

##### Responsibility & Authority

The primary responsibility for the prevention detection and deterrence of fraud lies with Heads of Service. This responsibility includes ensuring that staff and partners are aware of both the implications of fraud and the risks of fraud across their service area. The primary responsibility for the investigation of any suspected fraud found in a service area lies with the CAFT. All details must be immediately

forwarded to the CAFT, to preserve the chain of evidence linked to such investigations within the law.

The Head of the CAFT is the officer designated by the Secretary of State under the provisions of the Social Security & Administration Act 2001 to act as Authorised Officer (Warrant Holder) in the obtaining of data prescribed within the Act which may otherwise be protected, in connection with the prevention and/or detection of a crime.

The Head of the CAFT is also the Barnet responsible officer for the authorisation of arrest and prosecution of offenders including deciding on any appropriate sanction action available within the law. The officer is responsible for ensuring that all investigations are conducted in accordance with the Criminal Procedures & Investigations Act (CPIA) the Police & Criminal Evidence Act (PACE), Human Rights and Regulation of Investigative Powers Act (RIPA) including the authorisation of surveillance powers.

Any suspected irregularity involving fraud/corruption within any function of the Council or its partner organisations or suppliers and contractors must be reported to the CAFT. Responsibility for the subsequent investigation of potential fraud and corruption lies with the CAFT.

The Head of the CAFT, the Chief Finance Officer, or other authorised representative, shall have authority to:-

- enter any Council land or premises;
- have access to all records documents correspondence and assets of the Council;
- receive such explanations as are necessary concerning any matter under examination, and
- require any employee of the Council to produce cash, stores or any other Council property under his or her control
- interview any and all individuals in connection with investigations including interviews in accordance with the Police & Criminal Evidence Act (on tape).

## **5. BANKING ARRANGEMENTS**

- 5.1 The Chief Finance Officer must approve all banking arrangements across the council, and must be satisfied over the safe keeping of all controlled banking stationery.
- 5.2 Cheques drawn on the Council's main bank accounts shall be authorised by the pre-printed title "Chief Finance Officer, London Borough of Barnet".
- 5.3 Cheques above certain financial limits set by the Chief Finance Officer shall be manually countersigned by those designated officers set out in writing by the Chief Finance Officer.

## **6. SECURITY OF ASSETS**

### General

- 6.1 Heads of Service are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.
- 6.2 Maximum limits for cash holdings shall be set by the Chief Finance Officer, which may not be exceeded without prior authority.
- 6.3 All keys to safes and the like items shall be carried on the person of the officer responsible. Heads of Service shall keep a record of key holders. Any loss of keys shall be reported to the Head of Service.
- 6.4 Heads of service are responsible for the proper security and privacy of all information held in computer systems under their control, and for ensuring that these systems are can only be accessed by authorised personnel.

### Land & Property

- 6.5 The Chief Valuer shall maintain an indexed register (terrier) of all properties owned by the Council (except houses and flats provided under the Housing Acts).
- 6.6 This record will show the purpose for which the property is held, its location, extent and plan reference, and details of interest and rents payable and tenancies granted.
- 6.7 The Borough Solicitor shall have secure custody of title deeds.

### Other Assets

- 6.8 Heads of Service must maintain inventories of all assets employed in their service, and make arrangements for these to be checked at least annually.
- 6.9 Any surpluses/deficits in excess of a figure set by the Chief Finance Officer shall be reported to him/her. The Chief Finance Officer shall agree the action to be taken in relation to these differences, including, if necessary reporting to the Cabinet Meeting or Cabinet Committee.
- 6.10 Council assets may only be used for council business, and may only be removed from council premises with the consent of the Head of Service. The officer removing the asset then becomes responsible for the safekeeping of the asset.
- 6.11 All Council assets shall, wherever possible, be security marked.
- 6.12 Heads of Service are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals in excess of £6,000 (or a higher figure that is consistent with capital accounting regulations) are to be notified to the Chief Finance Officer.

## Stocks & Stores

- 6.13 Heads of Service are responsible for the safekeeping of stocks and stores held and shall not allow levels held to exceed reasonable levels. All records, returns and accounts shall be held in a form approved by the Chief Finance Officer and returns will be submitted as and when required.
- 6.14 Stores shall only be issued against properly authorised requisition notes, which shall be receipted by the person collecting the goods.
- 6.15 Unused items returned to stores shall be recorded on a stores return note.
- 6.16 The condition of stocks shall be checked on a regular basis by the Officer responsible for them.
- 6.17 Heads of Service must ensure that stock items above a value determined by the Chief Finance Officer are checked at least once each financial year.
- 6.18 All surpluses or deficits identified during stock takes shall be entered onto an adjustment record and the appropriate Head of Service, with the agreement of the Chief Finance Officer, may write-off deficiencies or bring surpluses into account.
- 6.19 The Chief Finance Officer or authorised representative may have access to all stock and stores and may make such checks as thought necessary.

## **7. IMPREST ACCOUNTS**

- 7.1 The Chief Finance Officer must authorise all imprest accounts.
- 7.2 The imprest account holder must:-
- provide a certificate showing the state of the account, when requested by the Chief Finance Officer;
  - only reimburse expenditure up to a limit set by the Chief Finance Officer;
  - obtain receipts for all payments made, which should be proper VAT receipts wherever possible;
  - properly account for VAT in all float reimbursements;
  - not allow the account to be overdrawn and shall arrange for reimbursement at regular intervals;
  - not pay any salaries or wages from the account;
  - not pay income into the account;
  - provide the Chief Finance Officer with a full account for the advance when ceasing to be the imprest account holder.

## **8. INCOME**

- 8.1 Officers should encourage payment in advance or at point of service delivery wherever possible, and minimise the amount of credit given to customers.
- 8.2 All records relating to income due to the Council, accounts raised, and receipts issued shall be in a format agreed by the Chief Finance Officer.

- 8.3 Officers responsible for controlled stationery must keep it secure.
- 8.4 Methods of payment must be agreed by the Chief Finance Officer.
- 8.5 The Chief Finance Officer may authorise payment by instalments if full payment cannot be obtained immediately.
- 8.6 Officers receiving monies shall keep an accurate and chronological account of all receipts and bankings.
- 8.7 Monies received must be banked on the day of receipt wherever possible, and not later than the next working day. All amounts paid in must be referenced to enable subsequent identification of the accounts to which they relate. All cheques, postal orders etc. shall be crossed with the crossing stamp provided.
- 8.8 No deductions may be made from monies received.
- 8.9 Internal transfers of official money shall be acknowledged in the records of the service concerned by the signature of the receiving officer.
- 8.10 Heads of Service must notify the Chief Finance Officer of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.

#### Invoicing & Debt Recovery

- 8.11 Officers responsible for raising invoices must ensure that VAT has been properly accounted for and that the debt is recorded in a format approved by the Chief Finance Officer.
- 8.12 Officers responsible for the collection of amounts invoiced should only put forward amounts for write-off after all appropriate steps to recover the debts have been exhausted.
- 8.13 A review of every debt should be undertaken at least quarterly.

### **9. INSURANCE**

- 9.1 The Chief Finance Officer is responsible for arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered.
- 9.2 Heads of Service must notify the Chief Finance Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks. The Chief Finance Officer will at least annually provide Heads of Service with a statement of existing insurances for verification.
- 9.3 Any incident which could give rise to an insurance claim must be promptly notified to the Chief Finance Officer by the relevant officer, who shall also inform the Police if appropriate.
- 9.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Borough Solicitor and/or the insurance company if proceedings are issued.



- 9.5 The Chief Finance Officer will examine all new, or amendments to existing policies as required in respect to contractors, mortgagors or other persons in which the Council has an interest.
- 9.6 Officers must consult the Chief Finance Officer and Borough Solicitor in all cases where the Council is requested to give an indemnity.
- 9.7 Officers in receipt of a motor vehicle allowance must produce registration documents, insurance policy, certificate of insurance and test certificate if required by the Chief Finance Officer. Insurance policies must be comprehensive and cover use on official busines.

## **10. INVESTMENTS, BORROWING, CAPITAL FINANCING & TRUST FUNDS**

- 10.1 All investments, except bearer securities, controlled by the Council shall be made in the Council's name or in the name of nominees approved by the Cabinet Meeting or Cabinet Committee.
- 10.2 All securities shall be held securely by the Council's bankers, the Chief Finance Officer or custodians approved by the Cabinet Meeting or Cabinet Committee.
- 10.3 All borrowing and, whenever possible all trust funds, shall be in the name of the Council.
- 10.4 The Chief Finance Officer shall be the Council's registrar of stocks and bonds and shall maintain records of all monies borrowed and lent.
- 10.5 Officers acting as trustees by virtue of their official position shall deposit all securities etc. which relate to the trust with persons authorised by the Chief Finance Officer unless the deed provides otherwise.
- 10.6 All relevant legislation and limits set by the Cabinet Meeting or Cabinet Committee shall be complied with.

## **11. ORDERING OF GOODS, WORKS & SERVICES**

- 11.1 Procurement of goods, works and services must be in accordance with Contract Procedure Rules.
- 11.2 Heads of Service must have systems in place to ensure that only authorised officers are allowed to place orders, and that orders are only raised when there is sufficient budget available.
- 11.3 Processes for ordering goods, works and services must be in accordance with arrangements approved by the Chief Finance Officer.

## **12. PAYMENT OF ACCOUNTS**

- 12.1 Methods of payment (e.g. cheque, BACS) must be agreed by the Chief Finance Officer.

- 12.2 The names of officers authorised by Heads of Service to certify invoices must be notified in advance to the Chief Finance Officer. When certifying invoices for payment these officers must first check that:-
- the works, goods or services to which the account relates corresponds to those shown on the relevant official order or that one of the exemptions set out in the Contracts Procedure Rules applies;
  - the works, goods or services to which the account relates have been received or satisfactorily carried out and have been examined or approved;
  - the prices, additions, calculations, discounts, other allowances and VAT are correct, and that the invoice is a proper VAT invoice;
  - the expenditure has been properly incurred (official order raised, committee authority given), there is budgetary provision and the expenditure has been correctly coded;
  - the appropriate entries have been made in inventories, stores records or stock books;
  - the invoice has not previously been passed for payment.
- 12.3 To enable the council to comply with the Late Payment of Commercial Debts Act, no amended invoices will be accepted. Heads of Service must:-
- return an invoice to the supplier and seek a new invoice with a revised date, whenever:-
    - the invoice is dated prior to receipt of goods, works or services and this is contrary to the agreed payment terms;
    - the invoice is incorrect;
  - when certifying an invoice for payment that was initially disputed, record on the certification form the date on which the invoice was actually validated.
- 12.4 Invoices that are not produced in an acceptable format will not be passed for payment. This includes invoices that do not comply with VAT Regulations.
- 12.5 Heads of Service should explore the possibility of early payment discounts with all suppliers of goods, works and services. This must be done within the context of the overall Procurement Strategy.
- 12.6 Heads of Service, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to the Chief Finance Officer.

### **13. SALARIES, WAGES & PENSIONS**

- 13.1 All appointments shall be made in accordance with the terms and conditions of the Council and the approved establishments, grades and rates of pay.
- 13.2 The Head of Human Resources shall calculate and pay all remuneration, pensions, compensation and other emoluments to current and former employees or shall approve and control alternative arrangements for this.
- 13.3 School Governing Bodies shall be responsible for assessing teachers' remuneration and the Head of Human Resources shall maintain teachers' salary and pensions.

13.4 Heads of Service must provide to the Head of Human Resources:-

- the names and specimen signatures of all officers authorised to sign personnel records;
- relevant details of appointments, leavers and any other change of circumstances that may affect payment or the nature of duty of any of their staff;
- details of absences due to sickness, accidents on or off duty, special leave without pay or other paid leave or absence;
- certified time-sheets for staff paid at hourly or weekly rates, at intervals and in the format determined by the Head of Human Resources.

13.5 At regular intervals the Head of Human Resources shall require that each pensioner shall provide a life certificate and statement of any employment which may affect the payment of pension. An undertaking to notify the Head of Human Resources should such employment be taken up shall also be obtained.

13.6 Salaries and wages shall normally be paid direct to the employee's bank account. Pensions and gratuities shall be at the discretion of the Head of Human Resources. All payments shall be made direct to the person concerned unless that person authorises otherwise.

13.7 Payment will normally only be made on the normal date except in respect of holidays or the person leaving the Council before that date. The Head of Human Resources has discretion to make an advance in exceptional circumstances.

13.8 The Head of Human Resources will periodically circulate a list of all salaried staff for Heads of Service to verify.

#### **14. TRAVELLING, SUBSISTENCE & FINANCIAL LOSS ALLOWANCE**

14.1 All claims for payment of car allowances shall be properly certified and in a format approved by the Chief Finance Officer. The names of certifying officers and specimens of their signatures shall be forwarded to the Chief Finance Officer.

14.2 The certification of any claim shall mean that the certifying officer is satisfied that the journeys were authorised, expenses were properly and necessarily incurred and that the allowances should be paid by the Council.

14.3 The Chief Finance Officer shall make payments of travelling or other allowances to Members of the Council (including co-opted Members), or its Committees or the Executive or its bodies, or members of the public who attend other Council bodies who are entitled to make such claims. All claims shall be made on the approved form.

#### **15. AMENITY & UNOFFICIAL FUNDS**

15.1 Amenity or Unofficial Fund relates to all sums of money other than those which are required to be paid into the Council's General Account (or such other account so authorised by the Chief Finance Officer) or Trust Fund monies outside the authority of the Council.

- 15.2 All accounts shall be opened by the Chief Finance Officer and their names shall include the name of the Borough and the establishment concerned.
- 15.3 Provided the Chief Finance Officer approves and is satisfied with accounting and security arrangements, separate accounts need not be opened for funds of small amounts.
- 15.4 The head of each establishment which sets up such a fund shall inform the relevant Head of Service of its existence (and the Governing Body in the case of schools without delegated budgets).
- 15.5 Responsibility for the administration of the fund shall rest with the head of the establishment and with such other member(s) of staff as that person shall decide.
- 15.6 Expenditure from the fund shall be at the discretion of the establishment head in conjunction with other member(s) of staff as felt necessary.
- 15.7 Cheques shall be signed and countersigned by the head and deputies of the establishment. All transactions above a limit set by the Chief Finance Officer shall be signed by at least two authorised officers.
- 15.8 Auditors shall be appointed by the head of the establishment and the fee (if any) shall be charged to the fund. Where the turnover of the fund exceeds an amount set by the Chief Finance Officer, the fund must be audited by auditors approved by that officer. The Chief Finance Officer shall have the right to inspect the accounts.
- 15.9 At the end of each financial year the head shall submit an audited summary of the fund to the Chief Finance Officer (and Governing Body if appropriate).

## APPENDIX F

### Members Licensing Code of Practice

This Code of Practice has been prepared for all Members who may attend licensing sub-committee meetings as Members of a Licensing Sub-Committee, or who may wish to make representations to such a sub-committee as a Ward Member.

This note applies only to hearings of the Licensing Sub-Committee to consider licence applications under the Licensing Act 2003.

This note has been drawn from good practice, the local code of conduct and the LACORS (Local Authorities Co-ordinators of Regulatory Services) guidance. "The role of Elected Members in relation to Licensing Committee Hearings under the Licensing Act 2003", (February 2005).

The definition of 'personal' and 'prejudicial' interests in the context of the Licensing Act is the same as for all other areas of legislation, and committee hearings. Personal interests include those which affect the well-being or financial position of the Member. If the interest is one which a member of the public with the knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest; then the interest is prejudicial. The Standards Board has stated "Regulatory matters such as planning and licensing are particularly sensitive ..... you should adopt a particularly cautious approach" [Lobby groups, dual hatted members and the Code of Conduct, Standards Board for England September 2004].

Whether a Member considers an interest to be 'personal' and if so whether it is 'prejudicial' is for the particular Member to determine having regard to their particular circumstances but the following general advice is provided specifically in the context of licensing hearings:-

- Where an application relates to a premises very close to where a Member, (or their family member, close friend) lives eg within their own Ward the interest is likely to be personal and potentially prejudicial.
- where the member is a frequent visitor to the premises in a personal capacity there is potentially a personal and a prejudicial interest.
- where the member belongs to a lobby or campaign group which may be directly impacted by the outcome of the hearing the interest is personal and potentially prejudicial.

### Members of Licensing Sub-Committees

- who have a personal and prejudicial interest are advised they cannot sit on the sub-committee and cannot sit in the public gallery but must withdraw from the committee room completely.

- Who have a personal interest which is not prejudicial are advised that whilst the Standards Board has advised they could sit on the sub-committee that the LACORS guidance advises they should not sit. Whilst the decision is that for the individual Member, the advice given here is that it would reduce the risk of legal challenge to a decision if the Member were to withdraw from the sub-committee at that hearing.

#### Other Members, not part of Licensing Sub-Committee

- who have a personal and prejudicial interest are advised that they cannot make representations on their own or any other party's behalf, and must withdraw from the committee room completely.
- who are personally affected by an application (and thus have a personal and prejudicial interest) may make written representation to the sub-committee, or may appoint a representative to represent them.
- who have a personal interest which is NOT prejudicial, are advised that they can appear on behalf of a party, in their capacity as a Ward Councillor representing their constituents.

#### Ward Members

- To avoid accusations of pre-determination, reduce the risk of legal challenge and to enable Ward Members to represent their constituents at committee hearings it is advised that Ward Members do not sit on a Licensing Sub-Committee when that sub-committee is considering an application in the Member's Ward.
- Ward Members may represent their constituents as at sub-committee hearings where their representation does not amount to a personal and prejudicial interest.
- Ward Members may represent their constituents at sub-committee hearings where they have a personal interest as long as that interest is not prejudicial
- Where Ward Members are representing a constituent it will be necessary for the Member to
  - be able to identify the person(s) whom they represent in the form of e.g. Mr X of Smith Street or Mrs Z of Jones Lane
  - have a written record of their constituent's concerns. This may be in the form of an email or letter from the constituent, or the Member's note of a telephone conversation or personal meeting. Should the sub-committee hearing result in an appeal it may be necessary for the Member to substantiate the representations they have made, and documentary evidence will be of great assistance.

## All Members

- Where any Member is precluded from attending a sub-committee hearing by virtue of having a personal and prejudicial interest then they may make representations in one of the following ways
  - (i) by making written representations to the sub-committee
  - (ii) by asking another Councillor (who does not have a personal and prejudicial interest) to be their representative at the Committee
- Members are frequently approached by applicants and objectors who wish either 'lobby' Members or to ask advice. The LACORS guidance reaffirms the legitimacy of lobbying but gives certain guidelines.
- Members of the sub-committee cannot represent an applicant or other interested party. If they wish to do so they must excuse themselves from the sub-committee.
- If a sub-committee member is approached by any means by persons writing to lobby them regarding a licence application to be heard by that sub-committee then the Member is strongly advised to explain they cannot discuss the matter, and to refer the person to their Ward Member and/or Licensing Officer. It is also recommended that Members make and keep notes of these instances in case the matter proceeds to an appeal.

## Guidance on Site Visits

The LACORS guidance is that 'site visits by Licensing Sub-Committee Members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias'.

This note suggests that site visits would be appropriate only where the application to be considered by the sub-committee is factually complicated, where a hearing is expected to last a full day or more, and where a site visit would materially reduce the time required by the sub-committee to clarify factual matters such as details of premises layout, thus assisting the sub-committee in making a more informed decision in a shorter time.

Visits would be organised by Licensing Officers who would accompany the sub-Committee Members.

Legal Officers and Democratic Services Officers would not be present.

All Sub-Committee Members would visit at the same time.

All other parties (e.g. objectors) would be invited to attend at the same time.

The applicant would be requested to consent to allowing objectors to attend. If permission was not granted the visit could not proceed.

No refreshments or the like to be provided (although the use of lavatories by the visitors should be permitted).

There would be no discussion as to the application, save as was strictly necessary to clarify factual queries eg re. layouts.

A report of the visit would be prepared by the Licensing Officer and would form part of the full report presented to committee.



## **APPENDIX G**

**PUBLIC PARTICIPATION RULES – SUMMARY OF CHANGES**  
**Petitions relating to Executive Functions, not within the ambit of the Area Environment Sub- Committees to be reported to Cabinet,**

**Grouping of all Rules relating to planning matters under one heading.**

**Speakers who have submitted a wish to address a Committee being able to nominate a substitute if he or she is unable to attend.**

**Where an applicant is not a named individual, ie a company, trust, place of worship, school or residents' association, only a Bone Fides representative of the Organisation will be permitted to speak.**

## Council Procedure Rules

### APPENDIX G

#### Section 4 – Public Participation

(Section Revised Council 12 April 2005)

#### Contents

#### PETITIONS, QUESTION TIME AND PUBLIC COMMENTS - RULES

Note on the conduct of Licensing Hearings

APPENDIX G

Section 4 – Public Participation

Contents

Area sub-committees and forums

Cabinet and Cabinet committee meetings

#### **Explanatory Note – petitions, public comments and questions**

The public may make representations at meetings in three ways:-

1. Question time – the first 30 minutes of committee and sub-committee meetings are reserved for question time. Members of the public may send in a written question about two weeks before the meeting and the Chairman will answer the question at the next meeting;
2. Petitions – If a group of residents are concerned about a Council service or a decision that is about to be made, they may send the Council a petition.
3. All petitions relating to the work of the Environment Sub-Committees will first be considered at the relevant Area Forum unless the Democratic Services Manager considers otherwise having regard to Paragraph 2.4. of this Section considers that reference to another body is appropriate.

All other petitions will be reported to the relevant body.

## Council Procedure Rules

### **Explanatory Note – petitions, public comments and questions**

4. Public comments – If a group of residents are concerned about a decision that is about to be made, they may nominate someone to speak on their behalf to the committee or sub-committee dealing with the matter, or at an area forum. They may also speak about planning applications at the Area Planning Sub-Committees or area forums.

#### **Area sub-committees and forums**

The Council has a number of Environment Sub-Committees covering different areas of the borough, together with area forums. The Environment Sub-Committees make decisions on local issues, except planning issues (*see area Planning Sub-Committees below*). The purpose of the area forums is to consult and involve local people in local issues.

Where there is a need to consult local people on a particular issue before the Environment Sub-Committee makes a decision, the area forums will be the main consultative mechanism. Therefore, all public comments, petitions etc will normally be considered at the area forum and, when an issue is to be considered by the environment sub-committee, a summary of the forum's views will be reported to the Environment Sub-Committee before it makes its final decision. All members of the sub-committee and ward councillors will also be members of the area forums.

In this way, the area forum will be able to consider the collective views of a particular area. Unless circumstances have changed significantly, it will be rare for the Environment Sub-Committee to consider further representations from individual members of the public once it has heard the collective views of local people at an area forum meeting.

There will also be a number of other mechanisms for consulting the public on policy issues and about reviews of services.

#### **Area Planning sub-committees**

Each area will also have an Area Planning Sub-Committee which will consider local planning applications. Normally, the sub-committee will consider individual representations on planning applications but occasionally planning issues may be considered by the forum.

## Council Procedure Rules

### **Explanatory Note – petitions, public comments and questions**

#### **Cabinet and Cabinet committee meetings**

Whilst meetings of the Executive are excluded from these provisions, the Leader (or in the Leader's absence the member chairing the Cabinet) and the chairman of a Cabinet committee has discretion to issue invitations to speak at Cabinet and Cabinet committee meetings where he or she considers it appropriate upon application.

Petitions relating to Executive matters, other than those falling within the Terms of Reference of the Area Environment Sub – Committees will be reported to Cabinet.

Application should be made to the Leader's Office at the Town Hall, Hendon, NW4 4BG by 10am on the second working day before the day of the meeting.

#### **NOTE ON THE CONDUCT OF LICENSING HEARINGS**

All Hearings relating to the Authority's functions under the Licensing Act 2003 and Gambling Act 2005 will be conducted within the framework and requirements of the Hearings Regulations made by the Secretary of State under that Act. It should be noted that the Act and Regulations make detailed provision for the hearing of representations in relation to licensing applications which will apply in the conduct of this Authority's licensing hearings. Accordingly, such hearings, and are excluded from the following procedure rules relating to public participation in Council Committees and Sub-Committees.

#### **Petitions, question time and public comments - rules**

##### **1. Excluded meetings**

These Rules do not apply to

- The Council meetingThe Council acting as Licensing Authority, the Licensing Committee ( except where the committee is dealing with policy items or other matters not involving the hearing or review of determinations under the Licensing Act 2003 or Gambling Act 2003). or the Licensing Sub-Committee
  - Appeals Committee
  - Chief Officers Appointments, Investigating and Disciplinary Panels
  - Pension Fund Management Advisory Panel

## Council Procedure Rules

- Meetings of the Executive and its Committees or any other public meetings at which executive decisions are taken apart from Area Environment Sub-Committee meetings (but see Explanatory Note above).
- Standards Committee when dealing with reports or hearings concerning complaints of a breach of the Members Local Code of Conduct

### 2. **General rules**

- 2.1 The matter must be relevant to the relevant body's powers and duties or to the borough.
- 2.2 Any matter that may involve the disclosure of exempt or confidential information will be considered in private session (*as defined in the Access to Information Procedure Rules in Part 4 of the Constitution*).
- 2.3 The following may not be considered:
- 2.3.1 requests from or in connection with the aims and activities of a political party;
  - 2.3.2 if the matter would result in the release of information to which the public does not have access, and which would prejudice effective enforcement action of any kind;
  - 2.3.3 any matter, except in relation to a planning application, where there is a right of appeal against any decision of the Council, whether to a Council appeals committee or panel, the courts, a tribunal, a review body or a government minister;
  - 2.3.4 matters which are defamatory, abusive or offensive;
  - 2.3.5 submissions from any legal or professional representatives acting as such (except on planning applications – Rule 6.9).
  - 2.3.6 requests from council employees or their trade unions on employment matters, all of whom have other processes for accessing decision takers.
  - 2.3.7 requests from members of the council, members of Parliament, the member for the GLA and members of other public bodies except at the discretion of the chairman of the body who may give consent where he or she considers it appropriate. Where

## **Council Procedure Rules**

the Chairman exercises such discretion, the speaker will speak in addition to any of those members of the public speaking in accordance with the provisions of Rule 3.

- 2.4 If the relevant committee or sub-committee has established a forum or other consultative body, the Democratic Services Manager may decide that the consultative body should consider the matter first. If so, the consultative body shall consider the petition, joint letter or hear any public comments or questions and the committee or sub-committee shall consider a written summary.

### **3. Petitions and joint letters and procedure**

- 3.1 Any petition or joint letter signed by 25 people or more who live or have businesses in the borough will be submitted to the next meeting of the committee or sub-committee or forum within whose terms of reference it falls, together with an officer's report.
- 3.2 Petitions or joint letters must be delivered to the Democratic Services Manager. If a member or officer of the Council receives a petition or joint letter, he or she must pass it immediately to the Democratic Services Manager. The Democratic Services Manager will arrange for the relevant chief officer to report the petition or joint letter to the next ordinary meeting of the relevant committee, sub-committee or forum.
- 3.3 The Democratic Services Manager shall notify the lead petitioner, of the method by which the petition will be dealt with,

### **4. Public question time and procedure**

- 4.1 Anyone who lives or has a business in the borough may ask the Chairman of any committee, or sub-committee, a question on any matter within its terms of reference. Questions will be dealt with strictly in order of receipt, but a second question submitted by an individual (other than a supplementary question permitted under Paragraph 5.7) will not be dealt with until all first questions submitted from members of the public have been dealt with. Similarly a third question from an individual will not be dealt with until all "second questions" have been dealt with and so on. This Standing Order does not apply to Council meetings.
- 4.2 Public questions may not be considered:
- 4.2.1 on any matter which has been the subject of a decision by the

## **Council Procedure Rules**

Council or any committee, or sub-committee in the previous six months, unless there has been a material change in the circumstances;

- 4.3 The time allowed for questions to the Chairman shall be limited to 30 minutes or a maximum of 20 questions, whichever occurs first.
- 4.4 The Chairman shall reply in writing to any questions not dealt with at the meeting within 14 working days from the date of the meeting.
- 4.5 Questions must be asked and answered without discussion, but the Chairman may decline to answer a question and his/her decision shall be final.
- 4.6 The Chairman will normally decline to answer any question, which is about an individual or which is about current or imminent litigation.
- 4.7 An answer may take the form of:-
  - 4.7.1 a direct oral answer; or
  - 4.7.2 a written answer to the questioner where information is in a publication or a reply cannot be given orally.
- 4.8 The questioner may ask one supplementary question to the original question. These do not count towards the limit of 20 questions.
- 4.9 The Democratic Services Manager shall send copies of all written replies and the questions to which they relate to all members of the committee for information. The number of questions that the Chairman has answered or declined to answer will be recorded in the minutes.

### **5. Public comments at meetings and procedure**

- 5.1 Any committee or sub-committee may consider allowing anyone who lives or has a business in the borough or is affected by a decision to talk to it on matters within its terms of reference. This must relate to an item of business being considered by the committee or sub-committee.
- 5.2 No more than four persons shall be heard on any single item of business or topic (including any person applying for consent or permission of any kind).
- 5.3 Public comments and questions may not be considered:

## Council Procedure Rules

- 5.3.1 on any matter which has been the subject of a decision by the Council or any committee, or sub-committee in the previous six months, unless there has been a material change in the circumstances;
- 5.3.2 on any matter where public comments have previously been made to a parent committee, sub-committee or committee and it was known at that time by those making comments that the matter would be referred to another committee or Council for a decision, unless legally necessary;
- 5.3.3 from any person applying to the Council for consent or permission of any kind, except in response to public objections.;
- 5.4 Where a person wishes to speak, in accordance with Constitutional requirements, on a matter which is already before the committee for decision, the speaker shall always have the opportunity of being heard before a decision is reached on the item.
- 5.5 If more than four requests to speak have been received and approved, those wishing to speak will be asked to agree amongst themselves which of them should address the committee. If they are unable to agree, the Committee will decide which four people they shall hear. An applicant will always have the right to respond to objectors' oral representations.
- 5.6 If a named speaker is unable to attend the Committee he or she may nominate a substitute to speak on his or her behalf, provided details of the substitute is notified to the Democratic Services Manager prior to the meeting.
- 5.7 The Chairman, who may vary the order of business, will determine the order in which public comments are to be heard at any meeting.
- 5.8 The representative of the public shall speak immediately following the officers' presentation of the item of business, to which the comments relate.
- 5.9 Where public comments relate to an application, the applicant will have a right to reply immediately after the public comments.
- 6.0 Each speech shall be limited to a maximum of three minutes, save for any time spent in replying to questions put by members. The speaker shall be allowed to speak without interruption, except to be advised of time or to be stopped from making defamatory, abusive or offensive comments.. Any response from an applicant shall be limited in the same way.

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## Council Procedure Rules

- 5.10 Following all the speeches, any response from applicants present and any questions which may be put by members, the committee or sub-committee shall proceed to debate and determine the item of business under consideration and shall not hear any further representations or comment from any speaker or applicant.

### **Additional Rules for planning applications only:**

- 5.11 The following additional rules apply to public comments on planning applications at the Planning and Environment Committee or an area planning sub-committee.
- 5.12 Each speech shall be limited to a maximum of three minutes.
- 5.13 Four speakers shall be allowed, to include where there are objectors the applicant or the applicant's representative named on a planning application or the person who submitted the application or an employee of the applicant or a bona fide member of the applicant, except:
- 5.13.1 multiple applications for the same site shall be treated as one application for public speaking purposes and a maximum of four speakers, including the applicant, shall be permitted on the applications combined;
- 5.13.2 where the applicant does not wish to speak the number of speakers shall be restricted to three speakers only.
- 5.14.1 Where the applicant is not a named individual ie a company, trust, place of worship, school or residents' association, only a Bona Fide representative of the organisation will be allowed to speak.. As far as Residents' Associations are concerned officers of the Residents Associations or local residents who qualify as members of the Residents' Association may address the Committee.
- 5.15 Where the Sub – Committee has decided to refer a decision to a parent committee or the parent committee to the Sub – Committee only those speakers who addressed the Committee which originally considered the planning applications will be entitled to address any subsequent Committee which determines that application

## **6. Procedure for requests to speak and ask questions**

- 6.1 Any request to speak at a meeting (other than on a planning application – see below) and the reasons for it, or a question (exact wording), must be received by the Democratic Services Manager, in writing,

## **Council Procedure Rules**

- (i) in the case of requests to speak, by no later than 10am on the 2<sup>nd</sup> working day before the day of the meeting;
- (ii) in the case of questions, by 10am on the 7th working day before the day of the meeting.

The request or question must be delivered by post, hand, fax or e-mail.

- 6.2 The Democratic Services Manager shall decide the appropriate body that should consider the request or question and shall approve the requests to speak under his delegated powers. If a named speaker is unable to attend the Committee he or she may nominate a substitute to speak on his or her behalf, provided details of the substitute is notified to the Democratic Services Manager prior to the meeting.
- 6.3 As soon as is practicable before the meeting, the Democratic Services Manager shall notify any person wishing to speak or to ask a question of the date of the committee, sub-committee or panel or forum where it will be considered.

### **6.4 Notification for planning applications only**

The request to make comments on a planning application shall be received, in writing. The request or question must be received by post, hand, fax or e-mail, by the relevant area planning officer no later than 10 am on the second working day before the day of the meeting.

The area planning officer shall inform the person who submitted the planning application and those wishing to make comments of the date of the meeting at which the application will be considered and representations are to be heard.

- 6.5 The Democratic Services Manager shall approve the requests to speak under his delegated powers. If a named speaker is unable to attend the Committee he or she may nominate a substitute to speak on his or her behalf, provided details of the substitute is notified to the Democratic Services Manager prior to the meeting.

### **7. Circulation of questions and requests to make comments**

- 7.1 Details of the questions to be asked at the meeting will be set out on the agenda.

### **Questions**

## **Council Procedure Rules**

Three clear days before the meeting the Democratic Services Manager shall:

7.1.1 circulate written details of any questions to be asked to members of the committee or sub-committee; and

7.1.2 place copies on deposit for public inspection.

### **Requests to make comments**

On the working day before the meeting the Democratic Services Manager shall:

7.1.3 circulate, via e-mail, details of any requests to speak at the meeting to members of the committee or sub-committee; and

7.1.4 place copies on deposit for public inspection.

7.2 Where a matter relates solely to a particular ward the Democratic Services Manager shall invite the members for that ward to the meeting at which the public comments will be heard, if practicable. This invitation will be delivered by e-mail. This Standing Order does not apply to questions.

## APPENDIX H

### RULES FOR THE DISPOSAL OF LAND AND REAL PROPERTY

1. The Council's holdings of land and real property ("property") are a corporate resource. The Directors Group and Chief Officers will keep these holdings under review as part of the Asset Management Plan.
2. If it appears that a property (in the context of these Rules the term "property" shall include an interest in property) is no longer required by the Council then the procedures set out below will apply. These are in addition to any statutory requirement, such as a requirement for consultation.
3. The Director of Resources ("DOR") or an officer designated by the DOR ("designated officer") will consult all Directors and Heads of Service on possible alternative uses of the property.
4. The DOR or designated officer will report to the Cabinet meeting or the Cabinet Resources Committee ("the relevant body"). It may decide to transfer the property to an alternative Council use. Otherwise, it will deal with the disposal of the property or the disposal may be dealt with by the DOR within the parameters set by the Leader's scheme of delegation relating to executive functions.
5. On any disposal of property, proper regard will be had to the professional advice from a qualified valuer at all relevant stages in the process and where the DOR or designated officer, the Cabinet Member for Resources or the relevant body deems it appropriate, independent valuation advice shall be obtained.
6. Where the relevant body is to deal with the disposal, it will receive a report from the DOR or designated officer or the Cabinet Member for Resources setting out an analysis of:-
  - Comparative benefits and disadvantages to the Council and to local residents and other interested parties of the Council disposing of or retaining the property
  - the objectives which the Council would secure by disposing of or retaining the property
  - the alternative uses to which the property might be put with specific reference to the response from the Directors and Heads of Service.
  - the alternative bases and methods of disposal
  - the estimated disposal value or values

- the estimated costs associated with disposal together with a statement from the DOR or designated officer on the extent to which each item of expenditure is anticipated to enhance the value of the property
- all other financial implications and risks associated with disposal or retention of the property by the Council
- the relevance of the proposed disposal within the context of the Corporate Plan and the Asset Management Plan.

The above requirements shall also apply where the report is made to the Cabinet Member for Resources or submitted to him/her in consultation.

7. Whenever a decision is taken to advertise the possible disposal of open space land, the DOR or designated officer shall report the matter to the next relevant Area Environment Sub-Committee.
8. The DOR or designated officer will where appropriate apply for any planning permission or other consent.
9. Where disposal by selected tendering is agreed, a report will be submitted to the relevant body. The report will set out :
  - those considered for selection
  - those recommended for selection
  - the reasons for the recommendation
10. Where disposal is to be by open tender, the DOR or designated officer will advertise the property and seek competitive tenders reserving the right not to accept the highest or any bid. Advertisements will be placed in two newspapers circulating in the borough and in such other publication as the DOR or designated officer considers necessary. The closing date for bids shall be not less than two weeks after the latest publication date.
11. The particulars of sale must indicate the method by which tenders are to be made. Tenders should not be considered unless contained in a plain envelope securely sealed and bearing the word "Tender" followed by the subject of the disposal and should not bear any other distinguishing mark to identify the tenders. The envelope should be addressed impersonally to the DOR or designated officer and until the time appointed for opening shall remain in his or her custody. The DOR or designated officer will maintain a list of all such tenders received distinguishing between those received before and after the closing date and time.
12. Tenders shall only be opened at one time, and only in the presence of:-
  - 12.1 The DOR or designated officer or his/her nominated representative.
  - 12.2 An officer nominated by the Borough Solicitor.

13. Following the opening of the tenders, the DOR or designated officer shall arrange for them to be scrutinised for compliance with the specified conditions of tender and subject to paragraph 14 report to the relevant body or Member for Resources if he/she has authority to accept the bid under the Leader's scheme of delegation relating to executive functions. The DOR or designated officer will ensure that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report.
14. Where a tender, amended tender or other bid is received after the specified closing date or time, or made other than in accordance with the specified conditions of tender, and would otherwise have been acceptable, the DOR or designated officer must report the result of the tenders received including details of late or non-complying tenders to the next meeting of the relevant body.
15. Where a bid or offer is made after the relevant body or the Cabinet Member for Resources has taken a decision to accept an earlier bid or offer then the later bid or offer shall not be considered unless, in the DOR view (after consulting the Borough Solicitor), it is necessary to do so in order for the Council to comply with statutory duties. In that case, the DOR or designated officer shall report the matter to the relevant body or the Cabinet Member for Resources, or, in cases of urgency, take a decision under delegated powers and report afterwards to the relevant body.
16. The relevant body may decide to accept a tender or bid that is not the highest but must explain the reasons.
17. Where disposal by public auction has been agreed, the DOR or designated officer shall before the auction begins provide the auctioneer with a note of the reserve price, if applicable, in a sealed envelope having previously agreed this in consultation with the Cabinet Member for Resources. The auctioneer shall open the envelope in the presence of the public to ascertain the reserve price but shall not communicate its contents to any person whatsoever. If the reserve price is equalled or exceeded, agreement for the sale to the highest bidder shall be concluded forthwith. If the reserve price is not reached, the property will be withdrawn from the auction and the matter reported to the relevant body.
18. All other disposals shall be regarded as disposal by private treaty and the DOR or designated officer shall be responsible for:-
  - (i) Taking all necessary steps to determine the level of potential interest from prospective purchasers and to identify any parties who might wish to purchase the property.
  - (ii) Determining how the negotiations for each potential disposal by private treaty are to be conducted and setting the process out in writing.

- (iii) Ensuring that full and reasonably contemporaneous records are made of all negotiations and that those records are appropriately stored either by hard copy or electronic means.
  - (iv) Upon the conclusion of negotiations reporting the results to the relevant body or Cabinet Member for Resources for consideration or where it is appropriate to do so for consultation with the Cabinet Member for Resources
  - (v) Ensuring that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report referred to in (iv) above.
19. All recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is approval through the General Consent or that the consent of the office of the Deputy Prime Minister has been obtained or will be sought to enable the disposal of the property to proceed as recommended.
20. The relevant body or Cabinet Member for Resources may decide to repeat or postpone the disposal process.
21. The relevant body may decide to change a previously approved method of disposal.
22. Where the prospective purchaser will be required by the Council to enter into obligations in the legal documentation in favour of the Council or of any other party or for the benefit of the locality, then the DOR or designated officer will ensure that full and proper enquiry is made as to the financial and other capacities of the purchaser to carry out the obligations. In so doing, the DOR or designated officer will consult as necessary with the Chief Finance Officer, the Borough Solicitor and other Directors and Chief Officers as appropriate. The DOR or designated officer will set out the outcome of those enquiries and consultations in the report seeking approval to the disposal.
23. Where the Council is disposing of property jointly with another party then to the extent that the procedures for the disposal do not accord with these Rules they must be approved in advance by the relevant body.
24. (i) Once a disposal has been approved, the DOR or designated officer will ensure that the Borough Solicitor is provided with full and accurate instructions to enable the legal documentation to be prepared in accordance with the terms of disposal agreed by the parties and approved on behalf of the Council. In cases of urgency, the DOR or a designated officer may provide instructions to the Borough Solicitor to prepare and submit to the prospective purchaser or lessee or his/her/its advisors the draft legal documentation, subject to obtaining Council authority.

- (ii) The Borough Solicitor will ensure that the DOR or designated officer is provided with a copy of the draft legal documentation for comments/approval before it is sent to the prospective purchaser or lessee or his/her/its advisors except in cases of urgency where the documents will be submitted to the DOR or designated officer simultaneously with submission to the prospective purchaser.
  - (iii) The DOR or designated officer will confirm in writing that the draft documentation provided by the Borough Solicitor fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (iv) The Borough Solicitor will consult the DOR or designated officer in writing on all and any substantive amendments to the draft documentation and the DOR or designated officer will respond to the Borough Solicitor in writing with comments on each proposed amendment to the draft documentation.
  - (v) Prior to completion the Borough Solicitor will forward to the DOR or designated officer a copy of the final draft of the legal documentation as agreed with the prospective purchaser or lessee or his/her/its advisors and the DOR or designated officer will read through the final draft documentation in order to verify that the documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (vi) The Borough Solicitor will not proceed to engross and complete any legal documentation unless and until the DOR or designated officer has provided verification in writing that the final draft documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (vii) Reference to the Borough Solicitor includes officers authorized by the Borough Solicitor to carry out these instructions.
25. The Cabinet Member for Resources or the DOR or the designated officer will regularly report to the relevant body on the progress of all previously approved disposals.



## **APPENDIX I**

### **RESPONSIBILITY FOR FUNCTIONS – SUMMARY OF CHANGES**

#### **Terms of Reference of Audit Committee**

**Amendments to Terms of Reference of the Planning and Environment Committee to allow for cases in which the Council have a minor interest in the development and where a Committee decision is required, to be considered by the relevant Area Planning Sub – Committee, consequential amendment to the Terms of Reference of the Area Planning Committees and definition of “minor”.**

**Amendments to the Terms of Reference of the General Functions Committee, relating to the nomination of School Governors and clarification of the staffing matters which must be reported to the Committee.**

**Amendment to the Terms of Reference of the Licensing Committee by the inclusion of the Gambling Act 2005.**

**Reference to the Exclusion of the Gambling Act 2005 from the portfolio of the Cabinet Member for Planning and Licensing Services**

**Clarification of Officers’ delegated powers relating to Staffing Matters and requirement for all decisions taken by officers in this connection to be sent to the Chairman of the General Functions Committee.**

**Clarification of Head of Children’s Services’ powers**

# **APPENDIX I**

## **Part 3**

### **EXTRACT Responsibility for Functions**

# Responsibility for Functions

(Section revised Council 17 May 2005)

References: *Chapter 5, Guidance*

*The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*

*Section 13, Local Government Act 2000*

## Explanatory Note

1. The Local Government Act 2000 divides the functions of the local authority between the full Council (and its Committees) and the Executive. The Council is no longer the body responsible for all the activities of the local authority in the borough.

The Council's statutory duties are now broadly:

1. Approval of the budget and statutory policy framework.
2. Constitutional and quasi-legislative functions.
3. Dealing with applications for licences, approvals, consents, permissions (including planning permission) and registrations; and related regulation and enforcement action.

All other functions of the local authority are functions of the Executive, i.e. the Leader and Cabinet, and cannot be exercised by the Council (Section 13 (10) Local Government Act 2000).

This Part of the Constitution is the Scheme of Delegation that sets out the detailed arrangements for the allocation and discharge of responsibilities.

2. The principles of the Scheme of Delegation are that functions are delegated from the Council and the Executive to subordinate bodies and persons by exception rather than specifically.

This Part of the Constitution, therefore, also sets out the decisions that are reserved to specific decision takers and cannot be taken by subordinate decision takers.

3. It is a general legal principle that although delegation involves conferring authority on subordinate bodies and individuals, this does not mean that the delegator gives up the authority to act or take decisions. That general principle is expressly recognised in Section 15(9) of the Local Government Act 2000:-

"Any arrangements made by virtue of this section by an executive leader, executive member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the executive leader, executive, member or committee by whom the arrangements are made from exercising those functions".

## 1. ALLOCATION OF LOCAL CHOICE FUNCTIONS

Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out the local choice functions that can be allocated to the Executive or to the Council or to Council Committees. The following table shows which body is responsible for each of these. The bodies are described in the table in section 2.

Function	Decision making body
1. Any function under a Local Act.	1. The Executive
2. Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This excludes matters where statutory arrangements exist).	2. Appeals Committee
3. The appointment of housing benefit review boards.	This is no longer a function of the local authority
4-6. Making arrangements for appeals against exclusion of pupils, school admission and appeals by governing bodies.	4-6. The Council but delegated to the Democratic Services Manager.
7-8. Do not apply.	
9. Conducting best value reviews.	9. The Executive has the legal duty, which it will discharge through the approval of an action plan.  The Improvement Overview and Scrutiny Committee will oversee a review and evaluate and analyse the findings.
10-15. Any function relating to contaminated land and statutory nuisances.	10-15 Planning and Environment Committee with delegation to Area Committees and Officers.
16. & Planning and other information 17. Notices.	16. & Planning and Environment Committee, with delegation to Area Committees and Officers, except in so far as the notice relates to an executive function.

<b>Function</b>	<b>Decision making body</b>
18. Highways agreements.	18. Planning and Environment Committee, with delegation to Area Committees and Officers, except in so far as the agreement relates to an executive function.
19. Appointments.	19. The Council, with delegation to the General Functions Committee.

## **2. RESPONSIBILITY FOR COUNCIL FUNCTIONS**

Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations sets out the Council functions that are not allocated to the Executive. The following table sets out the body responsible for these.

Many decisions are taken by Officers or Sub-Committees under delegated powers. Delegation to Officers is set out in section 6 below. The division of responsibility between Planning and Environment Committee and the Area Committees is also set out below.

*(Note: amendments relating to a single Appeals Committee are to take effect as soon as practicable following implementation of the new licensing regime on 7 February 2005).*

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Council	Council can discharge all non-executive functions but most are delegated to committees or officers.	All members of the Council.
Council acting as the Licensing Authority	Agreeing and reviewing the Statement of Licensing Policy.	All Members of the Council
Licensing Committee	All functions under the Licensing Act 2003 and the Gambling Act 2005 associated Regulations, not otherwise delegated to the Licensing Sub-Committee	15 Non-executive Councillors, based on overall political proportionality of the Council.

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Licensing Sub-Committee	All functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, as delegated to it by the Licensing Committee	<p>Three Members of the Licensing Committee, to include one from the Panel of six Chairmen appointed by that Committee.</p> <p>The Democratic Services Manager selects Members to form the Licensing Sub-Committee as required, having regard to Member availability and the areas that they represent.</p> <p>The Democratic Services Manager arranges suitable hearing times.</p>
Audit Committee	<p>Statement of Purpose</p> <p>The purpose of an audit committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.</p>	<p>The proportionality rules apply to the membership of this Committee, which should comprise between 5 and 7 members.</p> <p>The Chairman should not be a member of the Executive, and should preferably be a member of an opposition party. Additionally, the Chairman should not be permitted to serve in that role for more than 4 consecutive years.</p>

Body responsible	Functions	Membership
	<p data-bbox="580 212 866 246">Terms of Reference</p> <p data-bbox="580 286 767 320"><u>Audit Activity</u></p> <ol data-bbox="580 360 1026 1821" style="list-style-type: none"> <li data-bbox="580 360 1026 757">1. To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.</li> <li data-bbox="580 797 1026 902">2. To consider summaries of specific internal audit reports as requested.</li> <li data-bbox="580 943 1026 1160">3. To consider reports dealing with the management and performance of the providers of internal audit services.</li> <li data-bbox="580 1200 1026 1417">4. To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.</li> <li data-bbox="580 1458 1026 1675">5. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.</li> <li data-bbox="580 1715 1026 1821">6. To consider specific reports as agreed with the external auditor.</li> </ol>	

Body responsible	Functions	Membership
	<p>7. To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p>8. To liaise with the Audit Commission over the appointment of the council's external auditors.</p> <p>9. To commission work from the internal and external audit.</p> <p><u>Regulatory Framework</u></p> <p>10. To maintain an overview of the council's constitution in respect of contract procedure rules and financial regulations.</p> <p>11. To review any issue referred to it by the chief executive or a director, or any council body.</p> <p>12. To monitor the effective development and operation of risk management and corporate governance in the council.</p> <p>13. To monitor council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the council's complaints process.</p>	



Body responsible	Functions	Membership
	<p data-bbox="587 212 1026 427">14. To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.</p> <p data-bbox="587 465 1026 645">15. To consider the council's compliance with its own and other published standards and controls.</p> <p data-bbox="587 689 719 723"><u>Accounts</u></p> <p data-bbox="587 763 1026 1234">16. To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.</p> <p data-bbox="587 1272 1026 1487">17. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p data-bbox="587 1532 927 1565">Review of Effectiveness</p> <p data-bbox="587 1603 1026 1740">18. To conduct an annual review of the effectiveness of the Audit Committee.</p>	

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Appeals Committees	<p>Determining an appeal or application where there is a right of appeal to a Council committee. This does not include matters, which are the responsibility of the Licensing Committee or the Licensing Sub-Committee, nor does it include special statutory appeal or review bodies. It does include:-</p> <ul style="list-style-type: none"> <li>• Applications and appeals relating to Sex Shops, Sex Cinemas and Sex Encounter Establishments</li> <li>• Staffing appeals relating to grading (but not the placing of individuals in a career grade), dismissal and relegation (including by centrally employed teaching staff)</li> <li>• Appeals relating to renovation, disabled facilities, home repair assistance and common parts facilities grants</li> <li>• Statutory complaints against school governing bodies</li> <li>• Appeals under the housing right to compensation scheme.</li> </ul>	<p>The composition of each of the Appeals Committees will comprise 7 councillors plus 2 substitutes from each political group.</p> <p>The Democratic Services Manager selects each Committee in turn having regard to member availability and the areas that they represent.</p> <p>The Democratic Services Manager arranges daytime or evening meetings to suit the wishes of appellants.</p>
Planning and Environment Committee	<p>1. Town and country planning and development control including tree and hedgerow protection.</p> <p>The following functions are reserved to the Committee and cannot be discharged by an Area Committee or officer.</p>	21 councillors, with a substitute member for each ward.

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Body responsible	Functions	Membership
	<ul style="list-style-type: none"> <li>• planning applications which involve a significant departure from the statutory development plan;</li> <li>• applications on behalf of the Council or where the Council has a significant interest in the development;</li> <li>• applications within the categories of development which must be referred to the Mayor of London; and</li> <li>• matters of significance to the entire borough or where major issues extend across geographic boundaries of sub-committees.</li> </ul> <p>(Reports on all the matters reserved to the Committee shall be made direct to the Committee and not through an area sub-committee.)</p> <p>2. Contaminated land and all statutory nuisances.</p> <p>3. Commons registration and town and village greens.</p> <p>(Which may include considering the recommendations of a non-statutory inquiry chaired by an independent person).</p>	

Body responsible	Functions	Membership
	<p>4. Highways use and Regulation, access to the countryside, arrangements and extinguishment of public rights of way.</p> <p><i>(Explanatory note: The Council's highways functions are limited to:</i></p> <ul style="list-style-type: none"> <li>• <i>creating, stopping up and diverting footpaths and bridleways</i></li> <li>• <i>asserting and protecting public rights to use highways</i></li> <li>• <i>removing things deposited on highways which cause nuisance</i></li> </ul> <p><i>All other highway functions are Executive functions).</i></p> <p>5. Gaming, entertainment, food and miscellaneous licensing in so far as not otherwise the responsibility of the Licensing Committee or the Licensing Sub-Committee</p> <p>6. Health and Safety regulation (otherwise than as an employer).</p>	

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Area Planning Sub-Committees (3)	<p>To discharge the council's functions, within the boundaries of their areas, in accordance with council policy and within budget, that relate to town and country planning and development control, including tree and hedgerow protection.</p> <p>This excludes the functions reserved to the Planning and Environment Committee</p> <p>If in cases where the Council has a minor interest in developments where a decision is required by a Committee, the Head of Planning will refer the matter to the appropriate Area Planning Committee.</p>	1 councillor for each ward in the area, with a substitute member for each ward.
	<p><b><i>(Explanatory note –</i></b></p> <p>A. consideration of planning applications by Area Planning Sub-Committees: The work of the Area Planning Sub-Committees consists mostly of determining applications for planning applications. Delays in determining applications will jeopardise the Council's ability to meet national performance criteria and impact adversely on the interests of applicants and affected residents.</p> <p>One cause of such delays is the deferral by sub-committees of planning applications for further information or for members to undertake site visits. To minimise this there is a general presumption that:</p>	

Body responsible	Functions	Membership
	<ul style="list-style-type: none"> <li>Chairmen of Area Planning Sub-Committees should arrange for site visits to be made in advance of the Sub-Committee meeting, particularly where the proposals appear to be contentious or they are of major importance to the area;</li> </ul>	

Body responsible	Functions	Membership
	<ul style="list-style-type: none"> <li>• Sub-Committee members who have queries on applications will raise them either at the site visit, or, in any event, as soon as possible before the meeting at which they will be considered).</li> </ul> <p>B. In so far as developments where the Council has minor interests in the development, these matters will normally be dealt with by the Head of Planning and delegated powers, unless it proves necessary to refer them to Committee , and are :</p> <ul style="list-style-type: none"> <li>• Minor developments on the public highway or Council owned land – including crossovers, hard standings/ramps, bus shelters, advertisements, satellite dishes, etc.</li> <li>• Minor extensions or ancillary building proposals less than 1000 sq m to buildings or property, including minor school extensions, housing estate, ancillary buildings, community services, etc.</li> <li>• Any ‘other’ or ‘minor’ developments as defined by the ODPM in PS1/PS2 Planning statistical categories of developments, for example 9 or less dwellings, advertisements, Listed building and Conservation Area consents.)</li> </ul>	

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Area Environment Sub-Committees	<p>To discharge the council's functions, within the boundaries of their areas, in accordance with council policy and within budget, apart from matters of significance to the whole borough or crossing sub-committee boundaries that relate to:</p> <ul style="list-style-type: none"> <li>• Highways use and regulation</li> </ul> <p><i>(Explanatory note: The Council's highways functions are limited to:</i></p> <ul style="list-style-type: none"> <li>• <i>creating, stopping up and diverting footpaths and bridleways</i></li> <li>• <i>asserting and protecting public rights to use highways</i></li> <li>• <i>removing things deposited on highways which cause nuisance</i></li> </ul> <p><i>All other highway functions are Executive functions).</i></p> <ul style="list-style-type: none"> <li>• Contaminated land and control of pollution and all statutory nuisances</li> <li>• Management of air quality</li> <li>• Gaming, entertainment, food and miscellaneous licensing (but not hearing individual appeals or applications which are the responsibility of the Licensing Committee, the Licensing Sub-Committee or the Appeals Committee)</li> </ul>	1 councillor for each ward in the area, with a substitute member for each ward.



<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Standards Committee	Promoting and maintaining high standards of conduct by members and co-opted members. Assisting them to observe the Council's code of conduct, and advising and training them on it. Advising the Council on the Code and monitoring its operation. Consider ethical issues affecting the Council as a whole.	3 non-executive councillors (one from each political group), with six substitute members (also two from each political group), and 4 independent co-opted members.
Chief Officers Appointments Panel	<ol style="list-style-type: none"> <li>1. To interview candidates for the Head of Paid Service and recommend an appointment to the Council.</li> <li>2. To interview and appoint Directors and Chief Officers.</li> <li>3. Annually to appraise the performance of the Chief Executive.</li> </ol>	7 councillors including at least the Leader of the Council (or another member of the Executive).
Chief Officers Disciplinary and Capability Investigating Panel	Subject to the Officer Employment Procedures Rules in Part 4 of the Constitution, to act as an investigating committee for the purposes of the disciplinary and capability procedures for the Chief Executive and officers recognised by the council as a Director or Chief Officer, and to suspend such officers for the purposes of the investigation.	5 councillors.

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Chief Officers Disciplinary Panel	Subject to the Officer Employment Procedure Rules in Part 4 of the Constitution, to take any disciplinary action and action under the capability procedure in respect of the Chief Executive and officers recognised by the council as a Director or Chief Officer, up to and including dismissal.	5 councillors including at least the Leader of the Council (or another member of the Executive) (membership must be different from any investigating panel).
<p>General Functions Committee</p> <p>Meets as and when required but in practice functions discharged by officers.</p>	<p>All other Council functions that are not reserved to Council including</p> <ul style="list-style-type: none"> <li>• Appointing representatives on outside bodies</li> <li>• Appointing representatives to School Governing Bodies</li> <li>• Staff matters (i.e. salaries and conditions of service)</li> </ul> <p><i>(Explanatory note: Where the following issues arise from an organisational restructure, the restructure will be considered to have major implications and a report must be submitted to General Functions Committee for approval.</i></p> <ul style="list-style-type: none"> <li>• <i>Organisational restructures which could potentially lead to compulsory redundancies.</i></li> <li>• <i>Restructures involving changes to contracts of employment.</i></li> </ul>	7 councillors

Body responsible	Functions	Membership
	<ul style="list-style-type: none"> <li>• <i>Proposals relating to the discretionary aspects of the implementation of national agreements</i></li> <li>• <i>Proposals involving <u>major</u> changes in working practices, location of employees etc, irrespective of whether these changes are provided for in the employment contract.)</i></li> <li>• Election administration and electoral registration</li> <li>• pensions and superannuation</li> <li>• payments for maladministration in cases where the council has discretion and a payment has not been recommended by the Ombudsman or a court.</li> </ul>	
Special Committee (Constitution Review)	Proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council	8 councillors
Pension Fund Management Advisory Panel  Note: This is an informal body and not a Council Committee.	To advise officers on all matters relating to the use, management and investment of the superannuation fund including matters relating to the appointment and removal of Fund Managers, and major changes in benchmarks for investment. To make recommendations to the General Functions Committee on any matters where a member-level decision is necessary.	3 councillors (one from each political group).

### 3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

#### General

3.1 All the local authority functions that are not mentioned in the first two tables, or reserved to Council in Article 4, are executive functions. These are the responsibility of

- Individual members of the Executive (the Leader and members of the Cabinet)
- The Cabinet Meeting
- Cabinet Committees
- Area Sub-Committees (see 3.10 below)
- Joint Committees (see Article 11)
- Officers (see section 6 below)

Amended Cl.  
17/5/05

#### Cabinet Members

- i. Set out below is a table in the first column of which are listed the names, addresses and wards of Cabinet Members.
- ii. The second column sets out each Cabinet member's functions and the third column summarises what has been delegated.

<b>Executive Member and Portfolio</b>	<b>Responsibilities</b>	<b>Delegation</b>
Cllr. Brian Salinger 32 The Ridgeway London N11 3LJ  Oakleigh Ward  LEADER	The Leadership of the council.  To lead on budget and policy formulation and implementation in relation to community engagement. In particular, to build upon the Council's leadership role in embracing diversity and inclusiveness, removing inequality and promoting the London Borough of Barnet as a centre of excellence. To set the strategic direction for the development of effective community involvement in all aspects of the Council's work.	The Leader may discharge any function of the Executive.

Executive Member and Portfolio	Responsibilities	Delegation
	<p>To lead on employee relations in particular to allow staff to reach their full potential to the benefit of the Council and to promote a culture of learning and achievement.</p> <p>Specific individual responsibilities:</p> <ul style="list-style-type: none"> <li>• Communications, media relations and marketing</li> <li>• Community Safety</li> <li>• Law and probity issues</li> </ul>	
<p>Cllr. Christopher Harris 21 Meadway Court Meadway Hampstead Garden Suburb NW11 6PN</p> <p>Golders Green Ward</p> <p>CHILDREN</p>	<p>To lead on budget and policy formulation and implementation in relation to the Children Act 2004. In particular, to enhance the Council's corporate parenting role and to champion the causes of all children in the London Borough of Barnet, optimising opportunities to reduce and remove disadvantage.</p> <p>Includes Children's Social Services and the Youth Offending Team and the advantages offered by working with other agencies to secure a seamless approach to all aspects of children's services. To drive forward the Youth Justice Plan and ensure its approval annually, by full Council. Also to be involved in, and promote, discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

<b>Executive Member and Portfolio</b>	<b>Responsibilities</b>	<b>Delegation</b>
<p>Cllr. John Marshall 66 Sandringham Gardens London N12 0PJ</p> <p>Garden Suburb Ward</p> <p>EDUCATION AND LIFELONG LEARNING</p>	<p>To lead on budget and policy formulation and implementation in relation to education and lifelong learning. In particular, to raising and enhancing standards, ongoing education and services to schools, Early Years Provision and the Youth Service. Positively to encourage integration of all schools within the London Borough of Barnet into the community to achieve the best possible opportunities for education and lifelong learning.</p> <p>All matters associated with schools (Community, Voluntary and Foundation) and the teaching and development of children and young persons and the optimising of opportunities to further the same (including pre-school preparation).</p> <p>Positively to encourage and promote adult education to minimise literacy and numeracy problems in adults and to offer opportunities for developing and enhancing their skills and to further this via the current Lifelong Partnership contract with Barnet College, and to encourage other institutions which provide such opportunities.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

Executive Member and Portfolio	Responsibilities	Delegation
	<p>To lead on budget and policy formulation and implementation in relation to the promotion of libraries, museums and the arts as accessible opportunities for learning</p> <p>Also to be involved in, and promote discussions in relation to any matters within the portfolio.</p>	
<p>Cllr. Matthew Offord 6 Cousins Court Alwyn Gardens NW4 4XW</p> <p>Hendon Ward</p> <p><b>ENVIRONMENT AND TRANSPORT</b></p>	<p>To lead on budget and policy formulation and implementation in relation to the environment and transport. In particular, promoting the reputation of the London Borough of Barnet as a clean and green borough, with a transport infrastructure designed to meet the needs of today and the challenges of the future. This to include the development of a waste minimisation strategy.</p> <p>Also to promote the better integration of privately rented properties into the borough's housing framework, including the distribution of grants, as necessary, for the adaptation of private properties, to further care in the community. All matters relating to the development and management of the environment, including:</p> <ul style="list-style-type: none"> <li>• the street scene including pavements and all classes of roads;</li> <li>• parking provision;</li> <li>• refuse and recycling;</li> <li>• graffiti removal;</li> <li>• waterways;</li> <li>• parks and open spaces;</li> </ul>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to</p> <ul style="list-style-type: none"> <li>• Area Sub-Committees as set out in paragraph 3.10 below.</li> <li>• Officers, in consultation with the Cabinet Member, as set out in Paragraph 6 of Part 3 of the Constitution.</li> </ul>

Executive Member and Portfolio	Responsibilities	Delegation
	<ul style="list-style-type: none"> <li>• trees (includes public highways, council housing estates and in parks);</li> <li>• allotments;</li> <li>• transport and transport initiatives.</li> </ul> <p>Environmental health and trading standards. Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	
<p>Cllr. Lynne Hillan 20 Ashurst Road North Finchley London, N12 9AX</p> <p>Brunswick Park Ward</p> <p>POLICY AND PERFORMANCE</p>	<p>To lead on budget and policy formulation and implementation in relation to:</p> <ul style="list-style-type: none"> <li>• Policy and Performance (including Partnerships)</li> <li>• CPA and Best Value</li> <li>• Law and Probity</li> </ul> <p>In particular the effectiveness and value in performance of council services and the distribution of all grants, except those relating to the adaptation of properties in the private sector, after consultation with appropriate portfolio holders. The development of partnerships to further the Council's Community and Corporate Plans and an effective consultation structure.</p> <p>To secure the most beneficial terms for services and goods provided to the council.</p> <p>All aspects of performance and delivery of council services, and to instigate such interventions as required, including consultation with the Cabinet</p>	<p>The general powers delegated to Cabinet Members are set out below. In addition this cabinet Member may approve grants to voluntary organisations, up to £20,000 per annum.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>



Executive Member and Portfolio	Responsibilities	Delegation
	<p>Member for Resources, as necessary, to secure best value.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	
<p>Cllr Anthony Finn 4 Cheyne Walk Hendon London NW4 3QJ</p> <p>Hendon Ward</p> <p>REGENERATION AND DEVELOPMENT</p>	<p>To lead on budget and policy formulation and implementation in relation to regeneration.</p> <p>In particular, economic and strategic development, town centre regeneration, and policies and opportunities for the enhancement and enrichment of the London Borough of Barnet.</p> <p>To promote partnerships and opportunities for the economic development of the borough.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to</p> <ul style="list-style-type: none"> <li>• Area Sub-Committees as set out in paragraph 3.10 below.</li> <li>• Officers, in consultation with the Cabinet Member, as set out in Paragraph 6 of Part 3 of the Constitution.</li> </ul>

Executive Member and Portfolio	Responsibilities	Delegation
<p>Cllr Mike Freer 23 Claverley Grove Finchley N3 2DG</p> <p>Finchley Church End Ward</p> <p>RESOURCES</p>	<p>Deputy Leadership of the council.</p> <p>To lead on budget and policy formulation and implementation in relation to the effective management of human resources and the development of effective HR planning, policies and initiatives.</p> <p>To lead on major corporate contracts including the partnership with Greenwich Leisure.</p> <p>To lead on budget and policy formulation and implementation in relation to the provision of effective customer services and the delivery of customer-focussed services.</p> <p>To lead on budget and policy formulation and implementation in relation to:</p> <ul style="list-style-type: none"> <li>• Resources</li> <li>• the Council's budget and budget strategy and medium term financial plan</li> <li>• Housing Benefits</li> <li>• Risk Management</li> <li>• Asset Management Plan</li> <li>• Information Systems</li> </ul>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>In addition this Cabinet Member has the power to agree virements up to £250,000 in consultation with Cabinet Resources Committee and to accept the highest bid on a proposed property disposal subject to that bid not exceeding £1,000,000 and no more than 10% below the estimated disposal value.</p>

Executive Member and Portfolio	Responsibilities	Delegation
	<p>The monitoring of the council's budget and to instigate such interventions as necessary to ensure spending is kept within limits determined by council.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>
<p>Cllr. Fiona Bulmer 14 Sellwood Drive Barnet Herts EN5 2RL</p> <p>Underhill Ward</p> <p>COMMUNITY SERVICES</p>	<p>To lead on budget and policy formulation and implementation in relation to social care, housing and the emerging public health agenda (including health partnerships).</p> <p>In particular, promoting the best possible adult social services and seamless care in the community by working with and optimising all opportunities offered by the health authorities and other providers to further these aims.</p> <p>In particular working with the Barnet Homes, Housing Associations and other providers, to secure the optimum provision and associated environmental, neighbourhood development and social facilities for all those members of the community not living in private accommodation, or for those who require public sector housing.</p> <p>All matters related to public sector housing.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

Executive Member and Portfolio	Responsibilities	Delegation
	Also to be involved in and promote discussions in relation to any matters within the portfolio.	
<p>Cllr Melvin Cohen 146 Broadfields Avenue Edgware HA8 8SS</p> <p>Golders Green Ward</p> <p>PLANNING AND LICENSING SERVICES</p>	<p>To lead on budget and policy formulation and implementation in relation to planning, development plans, building and property construction and licensing, other than matters relating to the Licensing Act 2003 and Gambling Act 2005.</p> <p>To include all aspects of the development and development control service, Building Control. Naming and numbering of streets and properties.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Officers, in consultation with the Cabinet Member, as set out in Paragraph 6 of Part 3 of the Constitution.</p>

### 3.3 Cabinet Members general powers may be summarised as

1. To discharge the executive functions that fall within their portfolio, whether or not they are also delegated to officers except for matters specifically reserved to Council, Cabinet or cabinet committees.
2. To consider consultation documents, other than those referred to the Executive and, in consultation with the appropriate officers determine whether the Council's response needs to be approved by them or by the appropriate Director or Chief Officer.
3. To authorise inviting tenders for and acceptance of tenders or quotations in accordance with the Contract Procedure rules. Acceptance must be following consultation with the Cabinet Member for Resources or the Leader in cases where the Cabinet Member for Resources is the appropriate portfolio holder.
4. To approve any non-statutory plan or strategy requiring approval by the Executive and not reserved to the Cabinet for decision in paragraph 3.8.

3.4 Except in cases of urgency, they will not normally take delegated decisions if they

- involve something other than the implementation of an annual Performance Management Plan or a decision previously taken by Council, Committee or Cabinet.
- are key decisions as defined in Article 13 of the Constitution? Council  
20/4/200

### Explanatory Note

This covers urgent (not emergency) decisions that were not anticipated within the budget or PMP but nevertheless relate to everyday business, not major changes/decisions outside the approved budget and 11 statutory plans.

Example: school heating system fails at the beginning of the autumn term.

### Cabinet Committees

3.5 Cabinet Committees may discharge the executive functions that fall within their terms of reference, whether or not they are also delegated to officers, except for matters specifically reserved to Cabinet. The Rules in Part 4 of the Constitution may reserve certain decisions to cabinet committees.

3.6 The Cabinet Committees are:

<b>Committee</b>	<b>Functions</b>	<b>Membership</b>
Resources	<p>Capital and revenue finance, forecasting, monitoring, borrowing and taxation.</p> <p>To consider reports on treasury management strategy and activity, including creating and maintaining a Treasury Management Policy Statement.</p> <p>Grants and loans from all sources to voluntary organisations. (Grants above £50,000 are reserved to the Cabinet)</p> <p>Monitor the trading position of appropriate council services, carry out debt analysis and look at income sources and charging policies.</p>	<p>Councillor Mike Freer (Chairman)</p> <p>Councillor Brian Salinger</p> <p>Councillor Anthony Finn</p> <p>Councillor John Marshall</p> <p>Councillor Lynne Hillan</p>

Committee	Functions	Membership
<p>Equalities and Social Inclusion</p>	<p>To write off debt.</p> <p>To determine external or cross-boundary trading limit.</p> <p>To agree exceptions to standing orders, all decisions relating to approved lists and agreed national registers, authorise post tender negotiations and accept tenders which are not the lowest.</p> <p>To agree externalisation contracts including any proposal to appoint external cash investment managers.</p> <p>Approval of schemes not in performance management plans but not outside the Council's budget or policy framework.</p> <p>All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the council.</p> <p>To develop a social inclusion strategy for the Borough.</p> <p>To oversee the promotion and delivery of the council's social inclusion strategy.</p>	<p>Councillor Brian Salinger (Chairman) Councillor Melvin Cohen</p>

Committee	Functions	Membership
	<p>To develop and approve equalities policies, strategies and practice across the council in relation to both employment and service delivery.</p> <p>To consider in detail service equalities audits and to monitor the implementation of equalities audits action plans.</p> <p>To continue to support and review the integration of equalities in the Best Value Review process.</p> <p>To ensure the effective implementation of new legislation as it relates to the Council's policy and practice e.g. Disability Discrimination Act 1995, Human Rights Act 1998, Race Relations Amendment Act 2000 etc.</p>	
ICT	<p>To develop and recommend to Cabinet for adoption an e-Government strategy and associated ICT policies and strategies</p> <p>To submit to Cabinet each year detailed proposals for all council ICT expenditure in the coming year for consideration as part of the budget and forward plan process.</p> <p>To monitor the implementation of the e-Government and ICT strategies.</p>	<p>Councillor Mike Freer (Chairman)  Councillor Brian Salinger  Councillor Anthony Finn  Councillor Matthew Offord</p>

Committee	Functions	Membership
	<p>To co-ordinate and decide priorities for the development of e-government and ICT systems and projects to achieve the council's modernisation objectives in accordance with the approved strategies.</p> <p>All matters relating to the purchase or leasing of ICT equipment and software, provided that it is in accordance with the approved e-Government and ICT strategies and the Council's budget and policy framework.</p> <p>To oversee the performance of the IT service and the balance between internal and external service provision.</p> <p>For ICT contracts, to agree exceptions to standing orders, all decisions relating to approved lists and agreed national registers, authorise post tender negotiations and accept tenders including those which are not the lowest.</p>	

### **Cabinet**

- 3.7 The Cabinet Meeting may discharge any executive functions whether or not they are also delegated to officers.
- 3.8 The following decisions are reserved to the Cabinet meeting:
- Those so reserved in the Rules in Part 4 of the Constitution
  - Considering an executive function delegated to an area environment sub-committee referred to it for a decision.
  - Considering policy initiatives, initiating new policy proposals and determining the way in which policy reviews will be carried out.



- Determining responses to consultation documents on proposals which could result in the council having to provide a new service, discontinue an existing one or change service provision in such a way that there are budgetary implications.
- Determining whether meetings relating to non-key decisions will be held in public or private.
- Agreeing budget virements of up to £2.5m and applications of up to 50% of the latest estimated general fund of housing revenue account balances and to make recommendations to Council on virements over these amounts and those over £100,000 where the amount is more than 10% of the budget head.
- Grants to voluntary organisations above £50,000.
- Considering recommendations made to them by overview and scrutiny committees.
- A decision to adopt, or recommend to Council for adoption, a plan or strategy reserved to Cabinet as listed below, or the Council's budget and virement limits.

This includes the following:

#### Statutory Framework Policies – For Council Decision

- Best Value Performance Plan
- Children's Services Plan
- Community Plan
- Crime and Disorder Reduction Strategy (incorporating Drug and Alcohol Team Strategy)
- Education Development Plan
- London Transport Strategy – Local Implementation Plan
- Plans and strategies comprising the UDP
- Youth Justice Plan
- Single Education Plan (from 2005)
- Statement of Licensing Policy under the Licensing Act 2003 (for Council decision, acting as Licensing Authority)

#### Plans and Strategies for Cabinet Decision

- Corporate Plan
- Food Law Enforcement Service Plan
- Housing Strategy
- Homelessness Strategy
- Adult Learning Plan
- Behaviour Support Plan
- School Organisation Plan
- Equalities Policy
- Race Equality Scheme
- Rights of Way Improvement Plan
- Waste Plan
- Accessibility Plan
- Civil Contingencies Plan (subject to confirmation)

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- Local Development Framework and Supplementary Planning Guidance (subject to confirmation)

Non-statutory plans and strategies for approval by the Executive and not listed above will be approved by the relevant Cabinet member.

3.9 In taking decisions the Executive must act within the law and the Council's Constitution.

### **Area environment sub-committees**

3.10 Area environment sub-committees as well as discharging council functions (see Part 3, Section 2 – Responsibility for Council Functions) perform functions that are the responsibility of the Executive as set out below.

<b>Body responsible</b>	<b>Functions</b>	<b>Membership</b>
Area Environment Sub-Committees	<p>To discharge the Executive's functions, within the boundaries of their areas, in accordance with council policy and within budget, apart from matters which are the responsibility of the Licensing Committee or Licensing Sub-Committee or matters which are of significance to the whole borough or crossing sub-committee boundaries that relate to:</p> <ul style="list-style-type: none"> <li>• Highways use and regulation not the responsibility of the Council</li> </ul> <p><i>(Explanatory note: The Council's highways functions are limited to:</i>  - creating, stopping up and diverting footpaths and bridleways  - asserting and protecting public rights to use highways  - removing things deposited on highways which cause nuisance.  <i>All other highways functions are the responsibility of the Executive).</i></p> <ul style="list-style-type: none"> <li>• Town centre regeneration and management, including the operation of council markets</li> <li>• Private sewers, drains, public conveniences, land drainage and water courses</li> <li>• Refuse collection, cleansing, litter, waste and recycling</li> <li>• Day-to-day promotion, management and development of: <ul style="list-style-type: none"> <li>- parks, open spaces, allotments, recreation and</li> </ul> </li> </ul>	1 councillor for each ward in the area, with a substitute member for each ward.

Body responsible	Functions	Membership
	<p>leisure facilities;</p> <ul style="list-style-type: none"> <li>- libraries, museums, arts and tourism facilities.</li> <li>• Local nature reserves, sites of special scientific interest and other controlled areas</li> <li>• Day-to-day environmental issues and management of land on council housing estates</li> <li>• Cemeteries and crematoria</li> <li>• Making recommendation to Cabinet on the designation of conservation areas</li> </ul>	

Cl.  
8/8/03

#### **4. LIMITATIONS ON DELEGATION TO COUNCIL COMMITTEES AND SUB-COMMITTEES**

4.1 Committees and sub-committees of the Council (or the Council acting as Licensing Authority) are authorised to discharge all functions within their terms of reference with the exception of:

- Those matters referred to in the above tables
- Decisions reserved to the Council meeting in Article 4 of the Constitution

4.2 The Area Planning Sub-Committees can take decisions within their terms of reference provided they are not within the list of matters reserved to the Planning and Environment Committee, or contrary to Council policy or outside budget.

4.3 Area environment sub-committees may take decisions within their terms of reference provided they are not matters which are the responsibility of the Licensing Committee or the Licensing Sub-committee or matters of significance to the whole borough, contrary to Council policy (or contrary to the Statement of Licensing Policy) or outside budget and subject to the limitation for deciding matters crossing sub-committee boundaries as set out in Article 10 of the Constitution.

#### **5. MEMBERS' RIGHTS TO REFER MATTERS TO PARENT BODY**

5.1 Any committee listed in the following schedule may decide to report on any matter to Council and any sub-committee may report to its parent committee. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions.

5.2 A chairman of an area sub-committee may refer the sub-committee's recommendations up to the parent committee.

5.3 A specified number of members of a committee or sub-committee (see the table below) may require that a matter on which the committee or sub-committee had

proposed to take action is referred up to the next meeting of the Council or the parent committee to which the committee or sub-committee would ordinarily report, subject to the exceptions set out in 5.5, 5.6 and 5.7 below.

- 5.4 In such a case:-
- 5.4.1 for committees, the action the committee had proposed to take will be recommended to the Council;
  - 5.4.2 for sub-committees, the action the sub-committee had proposed to take will be recommended to the committee;
  - 5.4.3 no action shall be taken on the matter in the meantime.
- 5.5 The first exception is that no matter that has been the subject of a decision by the Council or, in the case of sub-committees, the parent committee in the previous six months may be referred up.
- 5.6 The second exception is Area Planning Sub-Committees, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning and the control of buildings and new streets may be referred up.
- 5.7 The third exception is the Planning and Environment Committee, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning may be referred up to the Council meeting.

<b>Committee/Sub-Committee</b>	<b>No. of members required to support a reference</b>	<b>Council/parent committee</b>
Planning and Environment	6	Council
Area planning sub-committees	2	Planning and Environment
Area environment sub-committees (council functions)	2	Planning and Environment
Area environment sub-committees (executive functions)	2	The Executive
General Functions Committee	3	The Council

- 5.8 Where area environment sub-committees are discharging executive functions a reference up can only be to the Executive.
- 5.9 This provision shall not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committees, Overview and Scrutiny Committees and Chief Officers Appointments, Investigating and Disciplinary Panels.

## 6. POWERS DELEGATED TO OFFICERS

### General Powers

6.1 Chief Officers (ie the Chief Executive, Directors and Heads of Service as listed in Article 12) can take decisions, in consultation with the Cabinet Member concerned (or without consultation where it is a decision authorised to be taken by the Chief Officer under the Contract Procedure Rules or it involves the implementation of policy or earlier decision of the Council or Cabinet or Committee or it is in respect of operational matters within the Chief Officer's sphere of managerial or professional responsibility and is not significant in terms of budget or policy):

- to discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to Executive Members, Cabinet meeting, Cabinet Committees, Committees or Council;
- in all matters where they have managerial or professional authority;
- to authorise and accept quotations for contracts to the limits placed on Chief Officers by Contract Procedure Rules for approved schemes with sufficient estimate provision;
- to agree settlements of up to £1,000 subject to budget and audit trails;
- to agree financial settlement where recommended by the Ombudsman or a Court;
- without exception, in cases of emergency.

#### Explanatory Note

This covers emergency decisions that were not anticipated within the budget or PMP but nevertheless relate to everyday business, not major changes/decisions outside the approved budget and 11 statutory plans.

Example: school heating system fails during mid-winter, or a school roof collapses today.

6.2 They may use whatever means they consider appropriate to discharge those functions, including:

- incurring expenditure and collecting income;
- engaging and deploying staff;
- deploying other resources within their control;
- placing contracts and procuring other resources within or outside the Council.

6.3 Besides having delegated powers to deal with executive matters, specific chief officers have powers to deal with regulation, licensing enforcement, staffing and

other statutory matters which are functions for which the Council is responsible, or for which the Council, acting as Licensing Authority, is responsible.

### Explanatory Note

There are a number of powers, mainly those relating to staffing and managerial issues, which Directors and Heads of Service are able to exercise without prior consultation, or in consultation with other officers, if they consider it appropriate.

For restructuring arrangements delegated powers may be exercised without reference to General Functions Committee if the restructure is deemed **minor** where;

1. The restructure only has implications for the staffing and management under the control of the Chief Officer exercising the delegated powers.
2. No compulsory redundancies will arise from the restructure.
3. Only vacant posts and/or posts held by staff that have volunteered and have been accepted for redundancy are deleted.
4. Changes in the designation of existing posts within the organisational structure are within budget.
5. Any new posts created within the organisational structure are within budget.
6. Temporary posts are created for up to a maximum of 2 years.
7. Minor changes to contracts of employment (with no corporate implications) where all individuals affected by the changes are in agreement.
8. The introduction of or change to existing local procedural arrangements.
9. Formal consultation has concluded with the staff affected and the trade unions and no notification of a failure to agree has been received.

Each of the above points where appropriate should be clearly referenced in the delegated powers report. Following signature, the Chief Officer concerned, will send a copy of the report to the Chairman of the General Functions Committee,

6.4 Before any delegated powers report is signed by a Chief Officer he or she must consider whether the issues involved are likely to raise significant levels of public concern or comment or give rise to policy considerations. Where this is the case, the matter must be referred to the appropriate Cabinet Member as to whether or not it is appropriate to use the delegation. All delegated powers reports must indicate that this process has been undertaken.

6.5 All Directors and Chief Officers will draw up a list of specific powers delegated to them which is published on the internet.

Cl.  
6/7/04

## **Specific Powers**

6.6 In addition, in consultation with the Cabinet member concerned:

- Strategic Directors have the power to agree virements up to £100,000 between Budget Heads, and
- Heads of Service, the power to agree virements up to £100,000 within a budget head.

6.7 The Chief Finance Officer has the powers set out in the Financial Standing Orders and in particular:

- To agree to revenue or capital expenditure not provided for within the control budget being incurred if the Chief Finance Officer is satisfied that it is wholly reimbursable to the Council, or compensatory savings have been identified. In all circumstances the expenditure must be consistent with performance management plans.
- To take the most appropriate form of borrowing from the approved sources and to make the most appropriate form of investments in approved instruments.
- Subject to a report being submitted to Resources Cabinet Committee on the action taken, to write off debt up to £5,000, in consultation with the Borough Solicitor.

6.8 The following Officers also have the powers indicated:

- the Chief Finance Officer to make grants to voluntary organisations up to £2,000 per annum.
- the Director of Resources, in consultation with the Cabinet Members for Resources to make decisions about:
- leases of not more than 30 years,
- licences and easements,
- to acquire land for under £5,000 and
- to dispose of interests in property for consideration not exceeding £100,000 plus proper fees.

Cl.  
8/8/03

6.9 The Head of Children's Services shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in child protection and care cases and the Head of Adult Social Services shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in adult protection and care cases.

## **Restrictions and Conditions**

6.10 Directors and Chief Officers will not take decisions that are reserved to another decision making body under this constitution, and in particular

- they will only take Key Decisions as defined in Article 13 of the

Constitution, or which do not involve the implementation of an annual Performance Management Plan or a decision previously taken by Council, Committee or Cabinet, if it is impractical for the relevant Executive Member to do so;

- they will only take decisions that are reserved to Council or Cabinet under this Constitution in an emergency and if it is lawful for them to do so.

- 6.11 When exercising delegated powers officers must act within the law and the Council's constitution, and follow Council policy (including the Statement of Licensing Policy) and the lawful instructions of Council Committees, Licensing Authority Committees, and the Executive. If exceptionally they need to depart from Council policy or those instructions, they must report to the relevant body as soon as possible.
- 6.12 Key decisions taken by officers will be published and recorded in accordance with the Access to Information Procedure Rules. Other decisions taken by officers must be recorded and made available to members of the Council either as individual or summary decisions published on the Internet or as a performance indicator reported to an Overview and Scrutiny Committee,
- 6.13 They may authorise other officers to exercise these powers in practice, but they are taken in their name and they remain their responsibility.
- 6.14 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.

## **7. JOINT ARRANGEMENTS**

The following are the joint arrangements for the discharge of functions which are the responsibility of the Executive:

- London Boroughs Grants Scheme under Section 48 Local Government Act 1985.
- Transport Committee for London agreement dated 15 January 1998.
- Association of London Government agreement dated 1 April 2000.



## **APPENDIX J**

### **COMMITTEES AND SUB \_ COMMITTEES – SUMMARY OF CHANGES**

**Rule 5 – new 5.5 to refer to Chairman’s right to a casting vote**

**Rule 7.2 – Definition of Working Day ( to accord with Council Procedure Rules)**

## Council Procedure Rules

### APPENDIX J

## Section 2 – Committees and Sub-Committees

(Section revised 17 May 2005)

### Contents

Note on the conduct of Licensing Hearings

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### **NOTE ON THE CONDUCT OF LICENSING HEARINGS**

Notwithstanding the following procedure rules for Council Committees and Sub-Committees, all hearings relating to the Authority's functions under the Licensing Act 2003, will be conducted within the framework and requirements of the Hearings Regulations made by the Secretary of State under that Act.

### **PROCEDURE RULES FOR COUNCIL COMMITTEES & SUB-COMMITTEES**

#### **1. Substitute members and quorum**

1.1 The number of substitute members on each body and the quorum for each shall be as set out below:

1.2

<b>Committee</b>	<b>Substitute Members</b>	<b>Quorum</b>
Planning and Environment Committee	21 (One Substitute for each ward) See Rule 2.7	5
Area Planning Sub-Committees		
Finchley and Golders Green	7 (one substitute for each ward)	3
Chipping Barnet	7 (one substitute for each ward)	3
Hendon	7 (one substitute for each ward)	3
Environment Sub-Committees		
Finchley and Golders Green	7 (one substitute for each ward)	3
Chipping Barnet	7 (one substitute for each ward)	3
Hendon	7 (one substitute for each ward)	3
Standards Committee	2 for each political group	3 (to include at least two co-opted members)
Sub-Committee appointed by the		3 (to include at least two co-opted

Section 2 – Committees and Sub-Committees

### Council Procedure Rules

Standards Committee		members)
Licensing Committee	Not applicable	4
Licensing Sub-Committee	Not applicable	Not applicable – all three Members (including one from the Panel of Chairmen) must be present for the meeting to proceed

Appeals Committees	2 for each appointed member from the same political group	3
Audit	6 (2 for each political group)	3
Chief Officers Appointments Panel	6 (2 for each political group)	3
Chief Officers Disciplinary and Capability Investigating Panel	6 (2 for each political group)	3
Chief Officers Disciplinary Panel	6 (2 for each political group)	3
Cabinet Overview and Scrutiny Committee	6 (2 for each political group)	3
Overview and Scrutiny Committees	6 (2 for each political group)	3
General Functions Committee	6 (2 for each political group)	3
Superannuation Fund Management Advisory Panel	6 (2 for each political group)	Not applicable

## 2. Substitute members – rules

- 2.1 A substitute member may only attend, speak or vote at a meeting in place of another member of the body who is not a substitute member and who is unable to attend the meeting.
- 2.2 Where seats on the body are allocated to political groups, a substitute member can only attend, speak and vote at a meeting in place of another member if both belong to the same political group.
- 2.3 Where there is more than one substitute per political group or ward, their names shall be listed in order of precedence for attendance.
- 2.4 No substitute may attend, speak and vote at a meeting unless the

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## **Council Procedure Rules**

originally appointed member and any substitute higher up the list has indicated to the Democratic Services Manager before the meeting that he or she is unable to attend.

- 2.5 Where the originally appointed member is a member of a political group (within the meaning given by the Local Government and Housing Act 1989 and regulations made under that Act) the notification required in Rule 2.4 may be made to the Democratic Services Manager by the designated whip of the member's political group subject to the Democratic Services Manager being reasonably satisfied that the member concerned is unable personally to give the notification due to illness or other reason preventing the member being unable to communicate.
- 2.6 A substitute member may only attend a committee meeting in place of a member who, at the time of the commencement of the meeting, is an appointed member of the committee.
- 2.7 (i) A Member of the Planning and Environment Committee who is unable to attend a meeting may ask any one of the substitutes from the same political group as the Member appointed by Council to that Committee to substitute for him or her;
- (ii) the notification of apologies and of the identity of the Substitute must be made personally by the Member concerned to the Democratic Services Manager. The notification may be made by the designated Group Whip of the Member's political group subject to the Democratic Services Manager being reasonably satisfied that the Member concerned is unable personally to give the notification due to illness or other reason preventing the Member being able to communicate.

### **Explanatory note – substitute members**

If a substitute member attends a committee meeting on behalf of his or her colleague, the substitution lasts for the whole meeting, including any subsequent adjourned meetings.

## **3. Powers**

- 3.1 No committee or sub-committee shall take decisions unless they are within their delegated powers.

## **4. Quorum – Rules**

- 4.1 Except when authorised by statute or ordered by the Council, business shall not be transacted at any meeting of any committee or sub-committee unless there is a quorum.
- 4.2 If the Chairman finds that a quorum of members is not present at any time during the meeting, the Chairman must adjourn the meeting and the

## **Council Procedure Rules**

Democratic Services Manager shall record in the minutes of the meeting the names of those who were present and those who were absent.

### **Explanatory Note – Inquorate meetings, adjourned meetings, cancellation and postponement**

Where a meeting is inquorate it cannot be held, and if a meeting already commenced becomes inquorate no further business can be transacted. Such a meeting is not “adjourned” since this would require a positive decision that the meeting is, of course, unable to take.

In these circumstances a new date for a meeting must be arranged in consultation with the chairman and in compliance with the Access to Information Procedure Rules giving the requisite days notice of the meeting.

Where a meeting is adjourned by the chairman, for example at 10 p.m. or under the provisions for general disturbance, or by a unanimous or majority decision of the members a new meeting date must be arranged on the same basis.

Once a committee or sub-committee has been convened by the proper officer publishing notice of the meeting there is no power for anyone to cancel or postpone it.

The meeting must take place and, if quorate, transact the business set out on the summons.

This does not prevent members at the meeting, if they consider it inappropriate for the meeting to proceed for whatever reason, from taking a unanimous or majority decision to adjourn it.

There is a practical solution in exceptional circumstances (such as bad weather) where the chairman could ask for members to be advised not to attend thereby rendering the meeting inquorate.

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## **5. Chairman of meetings**

- 5.1 If the Chairman is absent from a meeting the Vice-Chairman will take the Chair. If both are absent, a Chairman must be elected for that meeting.
- 5.2 The person presiding at the meeting may exercise any power or duty of the Chairman concerning the conduct of committee, sub-committee or panel meetings.
- 5.3 In the event of more than one nomination for a Chairman, the procedure set out in Standing Order 20 must be followed.

## Section 2 – Committees and Sub-Committees

### **Council Procedure Rules**

- 5.4 In the case of the Licensing Sub-Committee, the Chairman will be selected by the Democratic Services Manager from the Panel of Chairmen appointed by the Licensing Committee, having regard to Member availability, the areas they represent wherever possible.
- 5.5 The Chairman will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided he or she has voted when the motion or amendment was first put to the vote.

### **6. Minutes**

- 6.1 The confirmation of the minutes of previous meetings must be the first item of business at the meeting, except when there is a need to elect a Chairman.
- 6.2 No discussion shall be allowed on the confirmation of minutes. Any questions upon their accuracy shall be raised by motion and voted on without discussion. Upon approval as a correct record, the Chairman shall sign the minutes.

### **Members rights**

#### **7. Members items for the agenda**

- 7.1 A member will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a committee or sub-committee on which he/she serves. This Standing Order does not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee and the Chief Officers Appointments, Investigating and Disciplinary Panels.
- 7.2 The Democratic Services Manager must receive written notice of a member's item, at least seven clear working days before the meeting. A working day is deemed to end at 4pm. Any item received after 4pm will be recorded as received on the next working day. The item must be signed by the Member and delivered by hand, fax or email,
- 7.3 Items received after that time will only be dealt with at the meeting if the Chairman agrees they are urgent.

#### **8. Councillors' rights to attend meetings where they are not a member of the committee or sub-committee**

- 8.1 Councillors may attend any Council committee or sub-committee, even when they are not appointed to them, but they cannot vote. They may attend all parts of the meeting, whether or not the committee has excluded the press and public, with the following exceptions:

## **Council Procedure Rules**

- 8.1.1 Councillors who are not an appointed member of the Licensing Committee (except where the Committee is dealing with policy items or other matters not involving the hearing or review of determinations under the Licensing Act 2003 or the Gambling Act 2005), the Licensing Sub-Committee, the Appeals Committee or a chief officer appointments and disciplinary panel may not attend any part of these meetings.
- 8.1.2 Where a councillor is not a member of the committee or sub-committee, they should sit in the public gallery so that it is clear to the public that the member is not part of the body taking the decisions.

### **Rights to attend meetings – explanatory notes**

All councillors have a general right to attend any committee or sub-committee, whether they are meeting in public or in private. However, it is important that councillors who are not members of the committee or sub-committee are not seen to be trying to overly influence the decision of the committee or sub-committee. They should, therefore, sit in the public gallery.

Councillors may also speak at meetings – see standing order 9.

## **9. Councillors' rights to speak at committees or sub-committees when they are not a member**

- 9.1 Where a councillor has a right to attend a committee or sub-committee under standing order 8, he or she may speak at a meeting subject to:

9.1.1 giving notice to the Chairman of the meeting at least 15 minutes before the start of the meeting and

amended June 01

9.1.2 the Chairman giving his or her consent.

9.1.3 the following rules, which apply to a member speaking at a meeting of an area planning committee of which they are not a member:

- (a) the Member can only speak on applications within their ward;
- (b) the Member must follow any propriety rules adopted by the Council, which prevent Members speaking in support of initiatives, which they or a body of which they are a member are supporting.

### **Explanatory Note – councillors' right to speak at meetings**

Although the standing order says only 15 minutes notice is required, it is courteous and good practice to ensure the Chairman knows of your request in good time and is able to discuss any concerns with you. The Chairman is unlikely to withhold consent to any reasonable requests, which would not interfere with the effective conduct of the

## Council Procedure Rules

business of the meeting. For example, your request could be refused if a large number of members have requested to speak on the same item.

A note sent the day before the meeting or message left on the answer phone or at an e-mail address on the day of the meeting is unlikely to reach the Chairman in time. Unless the Chairman receives the message, notice has not been given.

Councillors who are not members of an Area Planning Sub-Committee may only speak at these meetings on applications in their ward and if they follow propriety rules.

A lead member should not normally speak on any area planning application relating to their lead role.

- 9.2 The Chairman of an Environment or Area Planning Sub-Committee, or the person who chaired the meeting, has the right to attend and speak at any meeting of the Planning and Environment Committee where there is a report from the sub-committee on the agenda.
- 9.3 Members who are not an appointed member of the Licensing Sub-Committee, or the Licensing Committee where the Committee is dealing with the hearing or review of determinations under the Licensing Act 2003 or the Gambling Act 2005, may only attend and speak at meetings of those Committees in accordance with the Licensing Code of Practice.

## 10. Personal and prejudicial interests

- 10.1 **Personal interest:** If any member of the Council has a personal interest in any matter being considered at a meeting, he or she must disclose to that meeting the existence and nature of that interest at the commencement of consideration of the matter or when the interest becomes apparent.
- 10.2 **Prejudicial interest:** If any member of the Council has a prejudicial interest in any matter being considered at a meeting, he or she must disclose that interest in accordance with Standing Order 10.1 and withdraw from the room (including the public gallery) until the matter has been dealt with unless he or she has obtained a dispensation from the Standards Committee or participation is otherwise permitted under Paragraph 12 of the Local Code of Conduct set out in Part 5 of the Constitution.

### Explanatory note – declaring interests at meetings

When a member declares a personal interest at a meeting, the member should state clearly:

- (a) the specific nature of the interest e.g. employed by ABC Ltd. hold major shares in DC plc:



## Council Procedure Rules

- (b) whether or not it is a prejudicial interest;

If it is a prejudicial interest the member should state clearly:

- (a) the he or she will withdraw from the room until the matter has been dealt with; or
- (b) that a dispensation has been given by the Standards Committee permitting the member to stay to speak and/or vote at the meeting and the nature of the dispensation or that participation is permitted under the Local Code of Conduct.

The member's name, the nature of the interest and whether or not the member remained in the meeting, took part in the debate or voted will be included in the minutes.

### **11. Disorderly conduct**

- 11.1 If the Chairman considers that a member of a committee, sub-committee, panel or any other body appointed by the Council is:-

- 11.1.1 persistently disregarding the ruling of the Chairman; or

- 11.1.2 behaving improperly or offensively; or

- 11.1.3 willfully obstructing the business of the meeting;

the Chairman or another member may move "That [the member named] be not further heard". The motion if seconded shall be voted on without discussion.

- 11.2 The Chairman must notify the meeting of the misconduct before they or another member may move the motion. If the motion is approved, the named member shall be entitled to vote on any remaining matters but must not speak.

- 11.3 If the named member continues in a disorderly manner after the motion has been passed, the Chairman may either:-

- 11.3.1 move "That the member named must leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or

- 11.3.2 adjourn the meeting.

- 11.4 A member excluded from the meeting will not be entitled to return to the meeting to vote on any particular item.

## **Council Procedure Rules**

- 11.5 A motion passed in accordance with either standing order will remain in force for any adjourned meeting.

### **Motions and amendments**

#### **12. Validity of motions and amendments**

- 12.1 Every motion, amendment or question shall be relevant to matters within the committee, sub-committee or panel's terms of reference. The Chairman of the meeting shall, if need be, give a ruling as to whether the motion is relevant.
- 12.2 An amendment must be relevant to the motion and shall be to either:-
- 12.2.1 refer a subject of debate to another committee for consideration or re-consideration; or
- 12.2.2 change the words (including leaving out words or adding words);
- but such changes must not merely have the effect of negating the motion before the committee.
- 12.3 No member may personally move more than one amendment to a motion. However, amendments may be discussed together.
- 12.4 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved. This is known as the substantive motion.
- 12.5 If the amendment is lost further amendments may be proposed on the original motion.
- 12.6 Once all amendments are dealt with in this way, the motion or the motion as amended is then put to the final vote.

#### **13. Motions, which may be moved during debate**

When a motion is under debate no other motion shall be moved except motions:-

- 13.1 to amend the motion;
- 13.2 to adjourn the meeting;
- 13.3 to adjourn the debate;
- 13.4 that the question be now put;
- 13.5 by the Chairman

## Council Procedure Rules

- that a member be not further heard;
- that a member must leave the meeting;

13.6 to exclude the press and public under Section 100A (4) of the Local Government Act 1972.

### Reports and decisions

#### 14. Decisions

14.1 After each meeting decisions made under the Committee or Sub-Committee's delegated powers will be produced and circulated to all members of the Council.

Minutes – Please see standing order 6 for confirmation of the minutes

#### 15. Reports of committees to Council or parent body

##### **Explanatory note – Referring reports to parent bodies**

There are a number of ways committees and sub-committees may refer reports to their parent bodies or Council. In summary, these are as follows:-

1. if a matter is outside the powers of the committee or sub-committee, it must be referred to the parent body.
2. the Chairman of an area sub-committee may refer a matter up to the parent body, together with the sub-committee's recommendations
3. if the majority of members on the committee or sub-committee decide the parent body should consider the matter; (In this case the committee may either wish to make a recommendation to the parent body or request the parent body's instructions); or
4. if the committee has agreed the recommendations, but a minority of members wish the matter to be considered by the parent body.

In the fourth case, immediately after the vote is taken and before the Chairman has moved to the next item, a member should state that he or she wishes the report to be referred to the parent body and the minimum number of members required must vote to support that motion. The exact number of members needed to support the request for each type of committee and sub-committee is listed in Part 3 of the Constitution, which is reproduced below. A vote must have been taken and a decision made before the matter can be referred to the parent body by a minority of members. If the committees decide to take no action, the provision does not apply.

## **Council Procedure Rules**

If a parent body has made a decision on a matter in the previous 6 months, a minority of members cannot refer the matter back to the parent body. In addition, a minority of members on an area planning sub-committee cannot refer planning applications and similar matters to the Planning and Environment Committee.

In all the above cases, no action will be taken until on the matter in the meantime.

## Council Procedure Rules

### Extract from Part 3 of the Constitution

#### **5. MEMBERS' RIGHTS TO REFER MATTERS TO PARENT BODY**

- 5.1 Any committee listed in the following schedule may decide to report on any matter to Council and any sub-committee may report to its parent committee. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions.
- 5.2 A chairman of an area sub-committee may refer the sub-committee's recommendations up to the parent committee.
- 5.3 A specified number of members of a committee or sub-committee (see the table below) may require that a matter on which the committee or sub-committee had proposed to take action is referred up to the next meeting of the Council or the parent committee to which the committee or sub-committee would ordinarily report, subject to the exceptions set out in 5.5, 5.6 and 5.7 below.
- 5.4 In such a case:-
- 5.4.1 for committees, the action the committee had proposed to take will be recommended to the Council;
  - 5.4.2 for sub-committees, the action the sub-committee had proposed to take will be recommended to the committee;
  - 5.4.3 no action shall be taken on the matter in the meantime.
- 5.5 The first exception is that no matter that has been the subject of a decision by the Council or, in the case of sub-committees, the parent committee in the previous six months may be referred up.
- 5.6 The second exception is Area Planning Sub-Committees, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning and the control of buildings and new streets may be referred up.
- 5.7 The third exception is the Planning and Environment Committee, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning may be referred up to the Council meeting.

## Council Procedure Rules

Committee/Sub-Committee	No. of members required to support a reference	Council/parent committee
Planning and Environment	6	Council
Area planning sub-committees	2	Planning and Environment
Area environment sub-committees (council functions)	2	Planning and Environment
Area environment sub-committees (executive functions)	2	The Executive
General Functions Committee	3	The Council
<p>5.8 Where area environment sub-committees are discharging executive functions a reference up can only be to the Executive.</p> <p>5.9 This provision shall not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee, Overview and Scrutiny Committees and Chief Officers Appointments, Investigating and Disciplinary Panels.</p>		

15.1 A summary of the officer's report to the committee and the recommendations of the committee will be submitted to the next meeting of the Council where:-

15.1.1 a committee has made recommendations on a matter within its terms of reference but outside its delegated powers; or

15.1.2 any committee has agreed to suspend a decision on a particular item until Council has considered the matter.

### **16. Reports of sub-committees and panels**

16.1 A report of a sub-committee or panel will be submitted to the next meeting of the parent committee where:-

16.1.1 the sub-committee or panel has made recommendations on a matter within its terms of reference but outside its delegated powers; or

### **Council Procedure Rules**

- 16.1.2 any sub-committee or panel by agreement or majority vote has agreed to suspend a decision on a particular item until the parent committee has considered the matter.
- 16.1.3 a chairman of an area sub-committee has referred the decision up under paragraph 5.2 of Part 3 of the Constitution, in which case the sub-committee's recommendation will be referred up to the parent committee.
- 16.1.4 any area environment sub-committee considering a proposal for discharging an Executive function for a location that crosses their boundaries do not approve recommendations submitted to them.
- 16.2 Any report from a sub-committee or panel on its proceedings shall be submitted to the parent committee and not direct to the Council.

### **Suspension of business at committee and sub-committee meetings**

#### **17. The time limit for meeting and outstanding business**

- 17.1 Except as indicated below, no business at any meeting of a committee or sub-committee shall be transacted after 10 p.m. and any business transacted after that time shall be null and void. At 10 p.m. and without further debate the Chairman shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.
- 17.2 At any meeting of the Planning and Environment Committee and an Area Planning Sub-Committee, the Chairman may extend the period for the transaction of business to 10.30 p.m. This will be recorded in the Committee's/ Sub-committee's decisions.
- 17.3 If any items remain on the agenda to be dealt with, the committee may decide to:-
- 17.3.1 call a special meeting or refer the remaining items to the next ordinary meeting; or
- 17.3.2 adjourn the meeting, but only the remaining items may be dealt with at the adjourned meeting. No new items may be put on the agenda and any substitutions at the meeting must remain for the adjourned meeting.
- 17.4 Standing order 17 does not apply to meetings of the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee, the Chief Officers' Appointments Panel, the Chief Officers' Disciplinary and Capability Investigating Panel, or the Chief Officers' Disciplinary and Capability Panel or statutory bodies that are not council committees or sub-committees.

## **Council Procedure Rules**

### **Voting and recording of votes**

#### **18. Voting at meetings:**

The mode of voting at all meetings of the Council, its committees, sub-committees or panels shall be determined by a show of hands except where otherwise provided by law or in these standing orders.

#### **19. Members dissent:**

If immediately after a vote is taken, a member of the body requests his/her vote to be recorded, the Democratic Services Manager shall record in the minutes whether that person cast his/her vote:-

19.1 for the question; or

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19.2 against the question; or

19.3 whether he/she abstained from voting.

#### **20. Voting on appointments:**

Where more than two persons are nominated for any position to be filled by the committee and there is no majority of votes in favour of one person, the name of the person having the least number of votes shall be deleted from the list. Further votes will then be taken on the same basis until a majority of votes is given in favour of one person.



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- Supporting the Vulnerable in our Community
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----------	----------------------

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------------------	-----------	------------

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------------------------------	------------------	------------

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-----------	--------------------	--------

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-------------------------	--	--------------------------

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------	-----------------	--------------------	---------------

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-------	------------	--------------------	--------

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**London Borough of Barnet**

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Level of authority for Authorisation and Acceptance	Contract Value				
	Up to £24,999	£25,000 to £74,999	£75,000 to £149,999	£150,000 to 499,999	£500,000 and above

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- **RULES FOR THE DISPOSAL OF LAND REAL PROPERTY**

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2. **RECRUITMENTS OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**
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**PART 5 – CODES AND PROTOCOLS**

## **MEMBERS' CODE OF CONDUCT**

### **CODES AND PROTOCOLS**

#### **NATIONAL CODE OF LOCAL GOVERNMENT CONDUCT**

##### **- INTRODUCTION**

#### **THE CODE**

1. The Law and Standing Orders
2. Public duty and private interest
8. Disclosure of pecuniary and other interests
13. Dispensations
20. Disclosure in other dealings
21. Membership of committees and sub committees
22. Leadership and Chairmanship
23. Councillors and Officers
26. Use of Confidential and Private information
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30. Expenses and Allowances
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- PART 2 - INTERESTS**
- PART 3 - THE REGISTER OF MEMBERS' INTERESTS**

#### **MEMBERS' PLANNING CODE OF GOOD PRACTICE**

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##### **INTRODUCTION**

1. Relationship to the Member's Code of Conduct
2. Development and proposal interests under the Members' Code
3. Fettering Discretion in the Planning Process
4. Contact with Applicants, Developers and Objectors

5. Lobbying of Councillors
6. Lobbying by Councillors
7. Site Visits
8. Public Speaking at Meetings
9. Officers
10. Decision Making
11. Training

## **OFFICERS' CODE OF CONDUCT**

### **CODE OF CONDUCT FOR EMPLOYEES OF BARNET COUNCIL**

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  - THE CODE WILL:
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  - FAILURE TO DECLARE
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  2. Disclosure of information
  3. Political neutrality
  4. Relationships
    - 4.1 Councillors
    - 4.2 The Local Community and Service User
    - 4.3 Contracts
  5. Recruitment and Employment of Relatives
  6. Additional Employment
    - Intellectual Property
    - Inventions and Patents
  7. Personal Interests
  8. Equal Opportunities
  9. Separation of Roles during Tendering
  10. Use of Financial Resources
  11. Corruption
  12. Gifts and Hospitality
  13. Sponsorship – Giving and Receiving
  14. Use of Internet, Intranet and e-mail facilities
  15. Application of the Code of Conduct



## **PROTOCOLS FOR MEMBERS-OFFICER RELATIONS**

1. **WHY PROTOCOLS**
  - 1.3 **(TABLE)**

The Nolan Committee Report lays down ten principles of public life.
2. **THE ROLE OF MEMBERS**
3. **SUPPORT SERVICE FOR MEMBERS**
4. **MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS, LAND AND PREMISES**
5. **THE ROLE OF OFFICERS**
6. **THE COUNCIL AS EMPLOYER**
7. **MONITORING THE PERFORMANCE OF OFFICERS**
8. **MEETINGS**
9. **OFFICERS ADVICE POLITICAL NEUTRALITY OF OFFICER**
10. **PERSONAL RELATIONSHIPS**
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<b>Decision of Divisional Court with respect to Officers</b>
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## **PART 6 – MEMBERS' ALLOWANCE SCHEME**

1. **THE SCHEME**
2. **BASIC ALLOWANCE**
3. **SPECIAL RESPONSIBILITY ALLOWANCE**
4. **CHILD CARE AND DEPENDENT CARERS' ALLOWANCE**
5. **TRAVEL AND SUBSISTENCE ALLOWANCE**
6. **C0-OPTEE'S ALLOWANCE**
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8. PENSIONS
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12. PART-YEAR ENTITLEMENTS
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### **SCHEDULE 1**

Special Responsibility Allowance 1 May 2003 to 31 March 2004

(TABLE)

ALLOWANCE	SCALE	FACTOR	AMOUNT
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### **SCHEDULE 2**

APPROVED DUTIES

### **SCHEDULE 3**

TRAVEL AND SUBSISTENCE ALLOWANCE

- Travel
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### **APPENDIX A**

LONDON BOROUGH OF BARNET

REVISED LIST OF APPROVED CONFERENCES (MARCH 1979, REVISED 1999)

### **PART 7 - MANAGEMENT STRUCTURE**

BARNET COUNCIL ORGANISATIONAL STRUCTURE

- *Please Note – this will be completed once the various Organisational changes currently in train are complete.*

# CONSTITUTION - LIST OF TABLES

## PART 2 – ARTICLES OF THE CONSTITUTION

### ARTICLE 6 OVERVIEW AND SCRUTINY COMMITTEES

#### 6.01 Terms of References:

Lists: The Scrutiny Committees & Scope of Scrutiny

### ARTICLE 10 AREA COMMITTEES AND FORUMS

#### 10.02 Form, Composition and Function:

Lists: Name of Ctte, Composition & Terms of Reference

### ARTICLE 12 TABLE OF CHIEF OFFICERS

#### 12.01 Management Structure:

a) General

b) Chief Officers

Lists: Post, Functions and areas of responsibility of the above

a) Head Paid of Service, Monitoring Officer and Chief Finance Officer:

Lists: Post & Designation of the above

## PART 3 – RESPONSIBILITY FOR FUNCTIONS

### 1. ALLOCATION OF LOCAL CHOICE FUNCTIONS:

Lists: Function & Decision making body.

### 2. RESPONSIBILITY FOR COUNCIL FUNCTIONS:

Lists: Body responsible, Functions & Membership

### 3. 3.1 RESPONSIBILITY FOR EXECUTIVE FUNCTIONS:

- Lists: Executive Member and Portfolio

- Responsibilities

- Delegation

### 3.6 THE CABINET COMMITTEES:

Lists: Committee, Functions and Membership

### 3.9 AREA ENVIRONMENT SUB-COMMITTEES:

Lists: Body Responsible, Functions, Membership

### 5. MEMBERS' RIGHT TO REFER MATTERS TO PARENT BODY:

Lists: Committee/Sub-Committee,

No of member required to support a reference

Council/ Parent Committee

## **PART 4 – COUNCIL PROCEDURE RULES – SECTION 2**

### **1. SUBSTITUTE MEMBER AND QUORUM**

**Lists: Committee**

**Substitute Members**

**Quorum.**

### **5. MEMBER'S RIGHTS TO REFER MATTERS TO PARENT BODY**

**Lists: Committee/Sub-Committee**

**No. of members required to support a reference**

**Council/parent committee**

## **Council Procedure Rules Section 3 – Panels and Consultative Bodies**

### **1. Consultative Bodies**

**Lists: Body**

**Council Members**

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## **Access to Information Procedure Rules**

### **10.4 Meaning of exempt information**

**Lists: Category**

**Condition**

## **Contract Procedure Rules**

**Table 5-1: Authorisation (where not previously Authorised by the Budget and supporting plans and strategies) and Acceptance Thresholds for Works, Supplies and Services.**

**Table 6-1: Barnet tendering and quotation thresholds for works, supplies and services.**

**Table 7-1: Authorisation and Acceptance thresholds and tendering requirements Social Care and Temporary Housing**

## **Part 6 – Members' Allowance Scheme**

**Schedule 1**

**Special Responsibility Allowances 1 April 2005 to 31 March 2006**

## **Part 7 Managements Structure**

**Flow Charts**

## APPENDIX L

### Budget and Policy Framework Procedure Rules Extract

(Section revised May 2003)

*References:*

*Chapter 2, DETR Guidance*

*The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*

#### 1. The framework for decisions

References in these rules to the statutory policy framework are to the plans and strategies required by law to be adopted by the Council and set out in Article 4.

The Council will be responsible for the adoption of its statutory policy framework.

**Note:** these are the 11 statutory policies that have to be agreed by full Council.

The Council will be responsible for adopting its budget prepared in accordance with the Financial Planning Rules in Part 4 of the Constitution.

The Executive will be responsible for the adoption of all other policies including those listed in Part 3 of the Constitution (section 3 - responsibility for Executive functions).

**Note:** this includes all the other statutory plans, and any policies that are not drawn up to meet a statutory requirement

Once a budget or a policy within the statutory policy framework is in place, it will be the responsibility of the Executive to implement it.

#### 2. Meetings to develop budget and policy

The Executive will develop the policy and budget framework, normally at private meetings attended by members of the Executive and relevant officers.

These meetings will –

- **Policy** – hold general discussions, receive briefings and consider draft reports and advice from political assistants on policy initiatives that the Executive wishes to promote and draft policies that the Executive is developing.
- **Budget** – hold general discussions, receive briefings and consider draft reports and advice from officers (including political assistants) in order to prepare draft estimates of income and expenditure.

Private meetings of the Executive will comply with the Access to Information Procedure Rules in Part 4 of the Constitution, and will be separate from public meetings of the Executive.

**ACSeS Model**

**Members' Planning Code of Good Practice**

**Background**

**Introduction**

- 1. Relationship to the Members' Code of Conduct**
- 2. Development Proposals and Interests under the Members' Code of Conduct**
- 3. Fettering Discretion in the Planning Progress**
- 4. Contact with Applicants, Developers and Objectors**
- 5. Lobbying of Councillors**
- 6. Lobbying by Councillors**
- 7. Site Visits**
- 8. Public Speaking at Meetings**
- 9. Officers**
- 10. Decision Making**
- 11. Training**

## ACSeS Model

### Members' Planning Code of Good Practice

#### **Background**

This Code of Good Practice has been prepared in response to the Local Government Association's Guidance Note on the preparation of Local Codes of Good Practice on Planning Matters in the light of the introduction of the new ethical framework and in consultation with the District Audit Service, Local Government Ombudsman and the Standards Board for England.

#### **Introduction**

**The aim of this code of good practice:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

**The key purpose of Planning:** to control development in the public interest.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved in less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

#### **1. Relationship to the Members' Code of Conduct**

- **Do** apply the rules in the Members' Code of Conduct first, which must be always be complied with.
- **Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Members' Code of Conduct for the purpose of planning control. If you do not abide by this Code of Good Practice, you may put:
  - the Council at risk of proceedings on the legality or maladministration of the related decision; and
  - yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the

Code of Conduct, a complaint being made to the Standards Board for England.

## 2. Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. (*Use the disclosure form provided for disclosing interests*).
- **Do** then act accordingly. **Where your interest is personal and prejudicial:-**
  - Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
  - Don't try to represent [ward/local] views, get another [ward/local] Member to do so instead.
  - Don't get involved in the processing of the application.
  - Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
  - Do be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places greater limitations on you in representing that proposal than would apply to a normal member of the public. (For example, where you have a personal and prejudicial interest in a proposal to be put before a meeting, you will have to withdraw from the room or chamber whilst the meeting considers it, whereas an ordinary member of the public would be able to make use of [the/any] public speaking scheme to address the meeting on the proposal and observe the meeting's consideration of it from the public gallery.).
  - Do notify the Monitoring Officer in writing of your own and note that:
    - . notification to the Monitoring Officer should be made no later than submission of the application;
    - . the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and



- . it is advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee (*where permitted*).

### 3. Fettering Discretion in the Planning Process

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making at this Council by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning authority and of your hearing the officer's presentation and evidence and arguments on both sides.

**Fettering your discretion** in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that though your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)
- **Do** also be aware that, whilst the Members' Code of Conduct provides for a presumption that you may regard yourself as not having a prejudicial interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where:
  - a planning proposal is made on behalf of:
    - . another local or public authority of which you are a member; or
    - . a body to which you have been appointed or nominated by the Council as its representative; or
  - you are a trustee or company director of the body submitting the proposal and were appointed by the Council:

you should always disclose a prejudicial as well as personal interest and withdraw"

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:

- the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - . your views are expressed on the limited information before you only;
    - . you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
    - . you will not in any way commit yourself as to how you or other s may vote when the proposal comes before the Committee; and
  - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
  - **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (*Use the disclosure form provided for disclosing interests.*)
  - **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member (where this has granted by the authority's standing orders or by the consent of the Chairman and Committee) where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:
    - advise the proper office or Chairman that you wish to speak in this capacity before commencement of the item;
    - remove yourself from the member seating area for the duration of that item; and
    - ensure that your actions are recorded.

#### 4. Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedure or technical advice to officers.

- **Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the [Development Control Manager/Head of Planning] to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the [Development Control Manager/Head of Planning] any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them and ensure that this is recorded on the planning file.

**In addition in respect of presentations by applicants / developers:**

- **Don't** attend a planning presentation unless an officer is present and/or it has been organised by officers.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- **Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Members might vote.

**5. Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your [ward/local area] and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 [in accordance with the authority's rules on gifts and hospitality].
- **Do** copy or pass on any lobbying correspondence you receive to the [Development Control Manager/Head of Planning] at the earliest opportunity.
- **Do** promptly refer to the [Development Control Manager/Head of Planning Services] any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- **[Do** comply with the Council's protocol on lobbying, presentations or discussions]
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at that meeting as a [Ward/Local] Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## 6. Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest and have to withdraw.

- **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## 7. Site Visits

- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that any information which you gained from the site visit is reported back to the Committee, so that all Members have the same information.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, [with the exception of the Ward/local Member(s) whose address must focus only on site factors and sit issues]. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.

- **Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit;
  - you have first spoken to the [Department Control Manager/Head of Planning Services] about your intention to do so and why (which will be recorded on the file); and
  - you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.
- **Don't** frame questions so as to permit additional time for an individual speech by a member of the public.

## 9. Officers

- **Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the [Head of Planning Services/Development Control Manager], which may be incorporated into any committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by the Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.
- **Do** come to meetings with an open mind and demonstrate that you are open-minded.
- **Do** comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- **Do** have recorded the reasons for Committee's decision to defer any proposal [and that this is in accordance with the Council's protocol on deferrals].
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 11. Training

- **Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- **Do** participate in the annual review of a sample of planning decisions to ensure that Members' judgements have been passed on proper planning considerations.

**MEMBER'S DISCLOSURE OF INTEREST**

A Member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

<b>MEMBER'S NAME:</b>	
<b>MEETING OF:</b>	
<b>DATE OF MEETING:</b>	

❖ I disclose for the information of the meeting that I have a personal interest in \_\_\_\_\_

(1)

which will be the subject of consideration by the meeting.

(2)

The nature of that interest is \_\_\_\_\_

AND (3) [Delete if not applicable] (4)

❖ The personal interest is a prejudicial interest and I shall withdraw from the chamber.

OR (5) [Delete if not applicable]

❖ The interest is disclosed on grounds of planning good practice, as I have or have appeared to judge [or reserve the right to judge] the planning matter elsewhere, including whilst serving on another body, and I will not take part in the debate or vote. I [will] [will not] [Delete as applicable] be also withdrawing from the chamber.

SIGNED: .....

Dated .....

❖ To be read out by the Member when invited to by the agenda or at the commencement of consideration of that item. PLEASE COMPLETE THIS FORM AND PASS IT TO THE COMMITTEE ADMINISTRATOR DURING THE MEETING.

- (1) State details of the item (agenda item, planning application number, etc.)
- (2) State what the general nature of the personal interest in the matter is. (You do not need to supply specific details unless you wish to).
- (3) State only if this is a prejudicial as well as a personal interest
- (4) You may regard yourself as not having a prejudicial interest in certain circumstances (*see overleaf*) and there are further specific exemptions relating to exercising a scrutiny function. It is a matter for you to consider whether or not you feel it is right to make use of an exemption in the circumstances and, if so, whether you want to explain that to the meeting.

A Member with a prejudicial interest in any matter must also:

- withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless the Code permits participation or s/he has obtained a dispensation from the Standards Committee;
- not exercise executive functions in relation to that matter; and
- not seek improperly to influence a decision about that matter.

- (5) State where you have an interest which flows from fettering one's discretion as described in the Members' Planning Code of Good Practice.



**DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF**  
(Non-Overview and Scrutiny Meetings)

