

Meeting of the Council of the London Borough of Barnet

TO BE HELD ON

TUESDAY 25TH JULY, 2017 AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG

A G E N D A



ASSURANCE GROUP

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Agenda and Timetable
Tuesday 25th July, 2017

Item	Subject	Timing	Page Nos
	Part 1 - Statutory formalities/Announcements (15 minutes)	7.00 – 7.15pm	
1.	Apologies for absence		
2.	Elect a Member to preside if the Mayor is absent		
3.	Prayer		
4.	Declarations of Interest		
5.	Minutes of the last meeting		5 - 14
6.	Official announcements		
7.	Any business remaining from last meeting		
	Part 2 - Question Time (30 minutes)	7.15 – 7.45pm	
8.	Questions to the Leader (and Committee Chairmen if he/she has delegated)		
	Part 3 - Statutory Council Business (60 minutes)	7.45 – 8.45pm	
9.	Petitions for Debate (20 minutes)		
10.	Reports from the Leader		
11.	Reports from Committees		
11.1	Report of the Constitution Ethics and Probity Committee - Constitution Review		15 - 144
12.	Reports of Officers		
12.1	Report of the Head of Governance		145 -

			148
13.	Questions to Council Representatives on Outside Bodies		
	Break (15 minutes)	8.45 – 9.00pm	
	Part 4 – Business for Debate (45 minutes)	9.00 – 9.45pm	
14.	Motions (45 minutes)		
14.1	Administration Motion in the name of Councillor Richard Cornelius - Ensuring the safety of Barnet's tower block residents		149 - 150
14.2	Administration Motion in the name of Councillor Brian Gordon - Proscribe Hezbollah in its entirety		151 - 152
14.3	Administration Motion in the name of Councillor John Marshall - Failure of UN-sponsored talks in Cyprus		153 - 154
14.4	Opposition Motion in the name of Councillor Phil Cohen - NHS funding in North London		155 - 156
14.5	Opposition Motion in the name of Councillor Ross Houston - Standards in the private rented sector		157 - 158
15.	Motions for Adjournment		

Andrew Charlwood, Head of Governance
Building 4, North London Business Park, Oakleigh Road South, N11 1NP

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Minutes

OF THE MEETING OF THE COUNCIL OF THE LONDON BOROUGH OF BARNET
held at Hendon Town Hall, The Burroughs, London NW4 4BQ, on 23 May 2017

AGENDA ITEM 5

PRESENT:-

The Worshipful the Mayor (David Longstaff)
The Deputy Mayor (Sury Khatri)

Councillors:

Maureen Braun	Ross Houston	Barry Rawlings
Jess Brayne	Anne Hutton	Hugh Rayner
Rebecca Challice	Andreas Ioannidis	Tim Roberts
Pauline Coakley Webb	Dr Devra Kay	Gabriel Rozenberg
Dean Cohen	Adam Langleben	Lisa Rutter
Jack Cohen	Kathy Levine	Shimon Ryde
Melvin Cohen	Kitty Lyons	Brian Salinger
Philip Cohen	John Marshall	Gill Sargeant
Geof Cooke	Kath McGuirk	Joan Scannell
Alison Cornelius	Arjun Mittra	Alan Schneiderman
Richard Cornelius	Alison Moore	Mark Shooter
Tom Davey	Ammar Naqvi	Agnes Slocombe
Val Duschinsky	Nagus Narenthira	Stephen Sowerby
Paul Edwards	Charlie O-Macauley	Caroline Stock
Claire Farrier	Graham Old	Daniel Thomas
Anthony Finn	Alon Or-Bach	Reuben Thompstone
Brian Gordon	Reema Patel	Jim Tierney
Eva Greenspan	Bridget Perry	Laurie Williams
Rohit Grover	Wendy Prentice	Peter Zinkin
Helena Hart	Sachin Rajput	Zakia Zubairi
John Hart		

1. PRAYER

Before beginning official Council business the Worshipful the Mayor, Councillor David Longstaff, announced on behalf of Council his shock and sadness at the senseless terrorist attack which had taken place in Manchester the previous night which had resulted in the deaths and injuries of many young people. He noted that Council condemned the actions of the terrorists and that Council's thoughts and prayers were with the victims of the attack.

On the request of the Mayor Council held a minute's silence.

The Mayor's Chaplain, Reverend Tristan Chapman, offered prayers.

2. APOLOGIES FOR ABSENCE

None.

3. ELECTION OF THE MAYOR

The Worshipful the Mayor called for nominations for the election of Mayor of the London Borough of Barnet for the ensuing municipal year.

Councillor Sachin Rajput moved, seconded by Councillor Stephen Sowerby, that Councillor Brian Salinger be elected Mayor.

Councillor Phil Cohen moved, seconded by Councillor Rebecca Challice, that Councillor Laurie Williams be elected Mayor.

Upon being put to the vote the nomination for Councillor Brian Salinger was declared carried.

RESOLVED – That Councillor Brian Salinger be elected Mayor of the London Borough of Barnet for the ensuing municipal year 2017-2018.

Councillor Brian Salinger then left the Council Chamber to robe. Upon his return, he was invested with the badge and chain of the office of Mayor.

THE WORSHIPFUL THE MAYOR COUNCILLOR BRIAN SALINGER IN THE CHAIR

The Worshipful the Mayor thanked the Council for the honour conferred upon him by his election and informed the Council that he would be supporting Homeless Action in Barnet as his charity.

The Worshipful the Mayor announced the appointment of Councillor Val Duchinsky to act as Deputy Mayor during his term of office.

The Worshipful the Mayor noted that instead of appointing a Chaplain he would, with the assistance of the Barnet Interfaith Forum, be seeking representations from minority religions to speak at council meetings during the next year.

4. MINUTES

The minutes of the Council meeting and the minutes of the Extraordinary Council meeting held on 4 April 2017 were agreed as a correct record.

5. DECLARATIONS OF INTEREST

There were none.

6. OFFICIAL ANNOUNCEMENTS

On behalf of the Council, the Worshipful the Mayor noted the sad news that Mrs Gordon-Lee, who was Mayoress in Barnet in 1968-69, had passed away in June 2016. The Worshipful the Mayor noted that this had only recently been notified to the Council.

The Worshipful the Mayor announced that there would be a memorial service on 24th May at midday for the late Major “Paddy” Patrick O’Brien the former representative

Deputy Lieutenant of the London Borough of Barnet at St Albans Church, Nether St, which he, the Deputy Mayor and the Mayoress would be attending.

On behalf of the Council, the Worshipful the Mayor congratulated Saracens for winning their second successive European Champions Cup after beating Clermont in the final in Edinburgh on 13 May. The Worshipful the Mayor noted that disappointingly Saracens had lost their Premiership Semi-Final against Exeter Chiefs on 20 May and so would not feature in the final at Twickenham on Saturday.

Congratulations were given to Anthony Joshua for his achievement in winning the World Heavyweight Boxing championship at the end of April.

7. NOTING THE APPOINTMENT OF THE DEPUTY LEADER

The Worshipful the Mayor noted that the Leader was elected for a 4 year period in 2014 and that as such, Council would only make appointments to the positions of Deputy Leader and Leader of the Opposition.

Council noted the appointment of Councillor Daniel Thomas as Deputy Leader.

8. NOTING OF THE APPOINTMENT OF THE LEADER OF THE SECOND LARGEST POLITICAL GROUP AS THE LEADER OF THE OPPOSITION

Council noted the appointment of Councillor Barry Rawlings as Leader of the Opposition.

9. REPORT OF THE HEAD OF GOVERNANCE

A separate vote was taken on the recommendations in each of the appendices to the cover report.

RESOLVED:

- 1. Council noted the political balance of the Council was:
 - a. 32 Members of the Conservative Group;**
 - b. 30 Members of the Labour Group;**
 - c. 1 Liberal Democrat****
- 2. Council agreed the allocation of seats as set out in the Table A of this report in order to comply with the political balance regulations requiring seats to be allocated proportionately to the political groups represented on Council.**
- 3. Council agreed the allocation of seats on non-politically proportionate bodies as set out in Table B of Appendix A.**
- 4. Council agreed to the allocation of a seat to the Member not part of a political group and, in accordance with the circulated schedule of appointments to committees, Councillor Jack Cohen was allocated a seat on the Licensing Committee and as a substitute member of the Finchley & Golders Green Area Planning Committee.**

APPENDIX A1 – APPOINTMENTS TO COMMITTEES AND OTHER BODIES

Council considered the nominations for appointments to committees and other bodies as set out in Appendix A1 and Addendum report to Appendix A1.

The Group Secretaries moved the nominations in their name.

Councillor Joan Scannell moved the following amendments:

Corporate Parenting Advisory Panel – The Conservative nomination for members to be amended so that Councillor Shimon Ryde replace Councillor Brian Salinger as a Member of the Panel.

Licensing Committee – The Conservative nomination for members to be amended so that Councillor Jack Cohen is added as a Member.

Finchley and Golders Green Area Planning Committee – The Conservative nomination for members to be amended so that Councillor Jack Cohen is added as a substitute Member of the Committee.

A separate vote was taken on the Conservative Group nominations and the Labour Group nominations where there was competition for roles, as follows:

Chairman and Vice-Chairman:

- **Policy and Resources Committee**
- **Performance & Contract Monitoring Committee**
- **Children, Education Libraries & Safeguarding Committee**
- **Environment Committee**
- **Assets, Regeneration & Growth Committee**
- **Adults & Safeguarding Committee**
- **Housing Committee**
- **Community Leadership Committee**
- **Audit Committee**
- **Planning Committee**
- **General Functions Committee**
- **Health Overview & Scrutiny Committee**
- **Constitution, Ethics & Probity Committee**
- **Chief Officer Appointment Panel**

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nominations being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Total	63

RESOLVED:

1. That the Conservative Group nominations for Chairman and Vice-Chairman on the above committees be approved.
2. That the Labour Group nominations for Chairman and Vice-Chairman become appointments as committee members instead.
3. That those remaining Chairman and Vice-Chairman nominations that are uncontested be approved.

Chairman only:

- Licensing Committee
- Pension Fund Committee
- Urgency Committee
- Finchley & Golders Green Area Committee
- Finchley & Golders Green Area Planning Committee
- Finchley & Golders Green Residents Forum
- Chipping Barnet Area Committee
- Chipping Barnet Area Planning Committee
- Chipping Barnet Residents Forum
- Hendon Area Committee
- Hendon Area Planning Committee
- Hendon Residents Forum
- Corporate Parenting Advisory Panel
- Health and Wellbeing Board

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nominations being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Total	63

The Conservative nominations were declared carried.

RESOLVED:

1. That the Conservative Group nominations for Chairman on the above committees be approved.
2. That the Labour Group nominations for Chairman become appointments as committee members instead, except in the case of the Finchley and Golders Green, Hendon and Chipping Barnet Residents' Forums.
3. That those remaining Chairman nominations that are uncontested be approved.

Membership:

- **Safer Communities Partnership Board**
- **Children’s Trust Partnership Board**
- **North Central London Joint Health Overview & Scrutiny Committee**
- **Health& Well-Being Board**

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nominations being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Total	63

The Conservative nominations were declared carried.

RESOLVED:

1. **That the Conservative Group nominations for membership on the above bodies be approved.**
2. **That those remaining nominations that are uncontested are agreed.**

Lead Member for Children’s Services:

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nomination being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Total	63

The Conservative nomination was declared carried.

RESOLVED that the Conservative Group nomination, of Cllr Reuben Thompstone, for Lead Member for Children’s Services be approved.

Design and Heritage Champion:

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nomination being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Total	63

The Conservative nomination was declared carried.

RESOLVED that the Conservative Group nomination of Cllr Stephen Sowerby for the post of Design and Heritage Champion, be approved.

Diabetes Champion:

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. The nominations were put to the vote, and were unanimously agreed.

RESOLVED that the Conservative Group nomination of Cllr Hugh Rayner, and the Labour Group nomination of Cllr Agnes Slocombe for appointment as joint Diabetes Champions be approved.

Natural Environment Champion:

Councillor Joan Scannell (Conservative) moved the nomination in her name. The nomination was put to the vote, and was unanimously agreed.

RESOLVED that the Conservative Group nomination of Cllr John Hart for the post of Natural Environment Champion, be approved.

North Central London Joint Commissioning Committee:

Councillor Joan Scannell (Conservative) moved the nomination in her name. The nomination was put to the vote, and was unanimously agreed.

RESOLVED that the Conservative Group nomination of Cllr Hugh Rayner for the post of member of the North Central London Joint Commissioning Committee, be approved.

APPENDIX A2 – NON-COUNCILLOR APPOINTMENTS TO COMMITTEES AND BOARDS

Council considered the nominations for the Independent, Co-opted, Partner and Officer Members of Committees as set out in Appendix A2. The nominations were put to the vote, and were unanimously agreed.

RESOLVED that the nominations as set out in Appendix A2 be approved for the next year.

APPENDIX B – APPOINTMENTS TO OUTSIDE BODIES

Council considered the nominations for appointments to Outside Bodies as set out in Appendix B.

A separate was taken on the Conservative Group nominations and the Labour Group nominations for the one contested roles on the following bodies:

- **Greater London Enterprise Ltd – Councillor Daniel Thomas and Councillor Anthony Finn (Conservative) vs Councillor Arjun Mittra and Councillor Phil Cohen (Labour)**
- **London Councils - Grants Committee – Cllr Sury Khatri (Conservative) vs Cllr Kath McGuirk (Labour)**
- **London Councils - Greater London Employment Forum – Cllr Richard Cornelius and Cllr Daniel Thomas (Conservative) vs Councillor Barry Rawlings and Councillor Ross Houston (Labour)**
- **London Youth Games – Cllr Sury Khatri (Conservative) vs Councillor Ammar Naqvi (Labour)**
- **Safer Neighbourhoods Board – Councillor David Longstaff (Conservative) vs Councillor Kath McGuirk (Labour)**
- **Youth Sport and Leisure Foundation – Councillor Reuben Thompstone (Conservative) vs Councillor Laurie Williams (Labour)**

Councillors Joan Scannell (Conservative) and Ammar Naqvi (Labour) moved the nominations in their name. Upon the Conservative nominations being put to the vote, the votes were declared as follows:

For	32
Against	30
Abstain	1
Absent	0

The Conservative nominations were declared carried.

RESOLVED –

1. **That the Conservative nominations for membership of the above Outside Bodies be approved.**
2. **That those remaining uncontested nominations to Outside Bodies as detailed in Appendix B be approved.**

APPENDIX C – Calendar of Meetings 2017-18

Council noted that since Appendix C was published changes of date had been agreed for Environment Committee as follows:

- Environment Committee in September 2017 had been moved from 26th to 11th September 2017 to avoid a clash with the Labour Party Conference.
- The May 2018 Environment Committee date had been cancelled.

RESOLVED - Council noted the changes to the calendar of meetings as set out in Appendix C and above.

10. REPORT OF THE CONSTITUTION ETHICS AND PROBITY COMMITTEE - REVISED MEMBERS CODE OF CONDUCT

Council noted that Annex 2 to the report, the Current Code of Conduct, contained a reference to the previous Monitoring Officer, Davina Fiore, which would with the agreement of Council be removed from the revised version of the document. This was duly agreed.

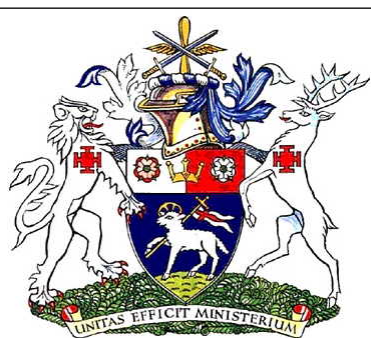
The Chairman of Constitution Ethics and Probity Committee, Councillor John Marshall, moved reception and adoption of the report.

RESOLVED –

- 1. Council adopted the revised Members Code of Conduct as set out at Annex C, replacing the existing Code of Conduct (as contained in Annex B - Parts 1, 2, and 3 and Appendix 1).**
- 2. Council noted that the Hearing Procedure, as set out in Appendix 2 in the current Members Code of Conduct, would be retained unchanged.**

The meeting finished at 8.17 pm

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Council
25 July 2017

<p>Title</p>	<p>Report of the Constitution Ethics and Probity Committee – Constitution Review</p>
<p>Report of</p>	<p>Head of Governance</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Annex 1 – Report to Constitution Ethics and Probity Committee, 29 June 2017 Annex 1A – Decisions of the Constitution Ethics and Probity Committee, 29 June 2017 Appendix A – Procedure for Handling Complaints (Tracked Changes) Appendix B – Procedure for Handling Complaints (Revised) Appendix C – Responsibility for Functions – Annex B (Scheme of Delegated Authority to Officers) Appendix D – Officer Code of Conduct Appendix E – Financial Regulations (Internal Audit and CAFT elements only) Appendix F – Meetings Procedure Rules (Planning Speaking Rules Only) Appendix G – Article 9 – Chief Officers Appendix H – Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers Appendix I – Contract Procedure Rules Appendix J – Management of Asset, Land and Property Rules</p>
<p>Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>

Summary

The Constitution, Ethics and Probity Committee at its meeting of 29 June 2017 considered a report on the Constitution, reviewing various sections. Only Full Council may amend the Constitution and therefore Council are recommended to approve the various recommendations of the Committee that would alter the Constitution.

Recommendations

- 1. That Council approve the recommendations contained in the report from the Constitution Ethics & Probity Committee at Annex 1A, and the track change versions attached at Appendix A to Appendix F.**
- 2. That Council note the Monitoring Officer's use of delegated authority to make minor amendments to Chief Officers post titles in the Constitution as set out in track change versions attached at Appendix G to Appendix J.**
- 3. That the Monitoring Officer be authorised to implement these revisions and publish a revised Constitution.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Council adopted a new Constitution at the annual meeting on 2 June 2014 when a Committee System form of governance was introduced. During the period June 2014 to April 2017 a number of changes were proposed to the Constitution to ensure the smooth running of committees. These were considered by the Constitution, Ethics and Probity (CEP) Committee and adopted by Full Council.
- 1.2 Following a further cycle of meetings some additional changes have been proposed to address inconsistencies and ensure correct processes are clearly set out. These were considered and agreed by CEP Committee meeting held on 29 June. The report to the Committee (Annex 1) and decisions of the Committee (Annex 1A) set out the proposed changes agreed by the Committee for recommendation to Full Council for adoption. The actual changes to the sections of the Constitution are then set out in Appendices A to F (as amended following consideration by the Committee on 29 June 2017).

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee (CEP) is required under its terms of reference to proactively review and keep under review all aspects of the Constitution. The proposals contained in Appendices A to F were discussed by that Committee and are now recommended to ensure the smooth running of the Council.
- 2.2 Following the implementation of a new senior Management Structure (agreed by the General Functions Committee on 3 May 2017) the Monitoring Officer has made a number of updates to the post titles of Chief Officers to ensure that operational decisions can be taken. Council are requested to note that the changes have been made.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Options were put forward to the Committee and the attached report reflects the options chosen (as amended by the Committee) for recommendation to Council following discussion and debate.
- 3.2 The option of not changing the Constitution was not recommended as a number of issues had been identified that required amendment or clarification to ensure that the Council operated effectively and in accordance with its statutory requirements.

4. POST DECISION IMPLEMENTATION

- 4.1 The Monitoring Officer will make arrangements for any changes agreed to be actioned, together with minor drafting and housekeeping changes. The revised Constitution will be published online and for existing hard copies issued to be revised and replaced.
- 4.2 The Constitution, Ethics & Probity Committee will continue to proactively keep the Constitution under review and may make further recommendations in the next municipal year.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet London Borough Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. By keeping the Constitution under review it ensures that the framework in which the Council is governed supports the delivery of corporate priorities and performance.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 None.

5.3 Legal and Constitutional References

5.3.1 Council Constitution, Responsibility for Functions, Functions of Full Council, Paragraph 1.2: “Only the Council will adopt and change the Constitution, except where otherwise provided in the Constitution or by resolution of the Council”.

5.3.2 Council Constitution, Responsibilities for Functions – the Constitution, Ethics and Probity Committee terms of reference includes to: “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”.

5.3.3 Council Constitution, Chief Officers “The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public”.

5.3.4 Council Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee Committee’s terms of reference includes “To have responsibility for overseeing the Council’s governance arrangements”.

5.4 Risk Management

5.4.1 The process of managing changes to the Constitution through the Constitution Ethics and Probity Committee ensures that the proposals submitted to Council are developed through Member participation and consideration.

5.5 Equalities and Diversity

5.5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

5.6 Consultation and Engagement

5.6.1 None in the context of this decision.

6. BACKGROUND PAPERS

6.1 None.

	<p>Constitution, Ethics and Probity Committee</p> <p>29 June 2017</p>
<p>Title</p>	<p>Constitution Review</p>
<p>Report of</p>	<p>Monitoring Officer Head of Governance</p>
<p>Wards</p>	<p>N/A</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix A – Procedure for Handling Complaints (Tracked Changes) Appendix B – Procedure for Handling Complaints (Revised) Appendix C – Responsibility for Functions – Annex B (Scheme of Delegated Authority to Officers) Appendix D – Full Council Procedure Rules (Tracked Changes) Appendix E – Full Council Procedure Rules (Revised) Appendix F – Officer Code of Conduct Appendix G – Financial Regulations (Internal Audit and CAFT elements only)</p>
<p>Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>
<p>Summary</p>	
<p>This report seeks discussion and approval of revisions to the Constitution following the review of elements which require updating and review.</p>	

Recommendations

That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in this report and the track change versions attached at Appendix A to Appendix E.

1. WHY THIS REPORT IS NEEDED

Current Review

- 1.1 The Council adopted a new Constitution at their annual meeting on 2 June 2014 when a Committee System form of governance was introduced. The system has now been in operation for over three municipal years.
- 1.2 The Constitution, Ethics and Probity Committee has met regularly over that period to ensure that they discharge their responsibility to proactively 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.
- 1.3 Since the Committee last met on 16th March 2017 a number of changes have been identified to ensure that the Constitution is updated in accordance with new legislative requirements and best practice.

Proposed Review

- 1.4 The Committee are requested to note that the Monitoring Officer has been undertaking a comprehensive review of the Constitution. The review is intended to simplify the Constitution in plain English and in a way which avoids duplication and unnecessary complexity and detail. The Constitution should be a straightforward explanation of how the Council works in practice. At present the Constitution, like many others, is very lengthy and is difficult to navigate.
- 1.5 The review will consolidate many of the sections into the Articles thereby enabling relevant information to be found in one place. For example, the functions of Full Council are included in Responsibility for Functions – it is proposed that these are transferred into Article 4 (The Full Council). A similar approach is proposed in relation to the terms of reference of committees as detailed in Responsibility for Functions, Annex A.
- 1.6 The revised Constitution will be reviewed by this Committee and Full Council in due course.

1.4 The following table represents the changes proposed to sections of the Constitution and the reasons for the changes:

No.	Section	Reference	Issue Identified	Changes Made
1	25A Members Code of Conduct – Procedure for Dealing with Complaints	See ‘changes made’	On 23 May 2017 Annual Council adopted a revised Members Code of Conduct. Following the adoption of the revised Code, the Monitoring Officer has reviewed and updated the associated procedure for dealing with complaints to ensure that it is fit for purpose and up to date.	<ol style="list-style-type: none"> 1. Delete section 1 (Introduction). 2. Delete section 2 (The Members Code of Conduct). 3. Delete section 3 (The Independent Person). 4. Revised the section titled ‘Making an Allegation’ to refer to the Monitoring Officer rather than a specific named individual. 5. Revised the section titled ‘Assessment of an allegation’ to clarify the role of the Monitoring Officer and the procedure to be followed 6. Amendments to the section titled ‘The investigation’. 7. Delete the section titled ‘Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct’. 8. Delete the section titled ‘Where the Monitoring Officer/Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct’. 9. Delete a paragraph from the section titled ‘Appeals’. 10. Amend the section titled ‘Reports’ to change the requirement from the six-monthly report to the Committee to an annual report.
2	Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers)	Delegated Authority for the Commissioning Director Adults & Health (Director of Adult Social Services)	An Internal Audit report into Safeguarding Statutory Responsibilities identified that within Responsibility for Functions, Annex B there is no reference to the statutory responsibilities of the Director of Adult Social	Amend the Delegated Authority for the Commissioning Director Adults & Health (Director of Adult Social Services) to include a reference to the Care Act 2014.

No.	Section	Reference	Issue Identified	Changes Made
			Services under the Care Act 2014. It was recommended that Annex B be updated to include reference to the Care Act 2014.	
3	Council Procedure Rules	See 'changes made'	The Monitoring Officer has reviewed the Council Procedure Rules and is proposing a number of amendments to remove unnecessary complexity and detail	<ol style="list-style-type: none"> 1. Delete section 2, 16 (Motions for the Adjournment) as this provision is not used in practice. 2. Amend section 6 (Variation) to give only the Mayor the discretion to vary the order of business. 3. Amend section 7 (Suspension of Procedure Rules) to clarify the wording. 4. Delete the heading 'Rules that apply to the whole of council meetings' 5. Delete the provision in section 9 (General provision for motions and amendments) that enables a motion to be referred to a committee for consideration. Members are able to add matters for debate to committee agendas via the Members Items mechanism. 6. Delete section 9.4. 7. Delete provision 10.3 (relating to the submission of amendments after 10.30am on the day of the council meeting) from section 10 (Alternations to motions or amendments) 8. Delete section 11 (Withdrawal of business items and amendments) 9. Delete from section 12 (Motions which may be moved without notice) the following provisions as they are irrelevant: 12.14; 12.15; and 12.16 10. Delete section 13 (Motions which may be moved during

No.	Section	Reference	Issue Identified	Changes Made
				<p>debate and closure motions)</p> <ol style="list-style-type: none"> 11. Delete section 14 (Division and voting) 12. Amend section 15 (Voting) 13. Amend section 20 (Rules of debate) to clarify the wording in section 20.4 14. Amend section 22 (Motions) to add restrictions in section 22.1 about debating general national issues and remove the provisions at section 23.5 and 23.6 relating to the referral of motions to committees. 15. Delete section 26 (Procedure for Policy and Resources budget report)
4	Officer Code of Conduct	Introduction	The Officer Code of Conduct does not refer to the Nolan Principles (7 Principles of Public Life). The principles have been added to the Code.	Amend the introduction to include the Nolan Principles.
5	Financial Regulations	Internal Audit Corporate Anti-Fraud Team (CAFT)	The Financial Regulations as currently drafted do not make explicit the rights of the Corporate Anti-Fraud Team to access all of the types of information that they require to discharge their duties to prevent and detect fraud. A number of changes are proposed to confirm these rights of access.	<ol style="list-style-type: none"> 1. Amend section 5.2.5 to strengthen the wording relating the right of Internal Audit to access systems, databases, etc. 2. Delete section 5.2.14 as this is not a responsibility of the Chief Internal Auditor 3. Delete the word 'Assistant' in section 5.3.1 as the Assurance Director is responsible. 4. Amend section 5.3.5 to update the responsibilities of Investigation Officers. 5. Add a sentence to section 5.3.6 to strengthen the powers of the Assurance Director 6. Amend section 5.3.9 to state that the Assurance Director will

No.	Section	Reference	Issue Identified	Changes Made
			<p>In addition, a number of housekeeping changes are proposed including removing a number of matters contained in the Financial Regulations that can be transposed into the Assurance Group Scheme of Delegation.</p>	<p>maintain a scheme of delegation. Delete sections 5.3.10 to 5.3.16 as these will be transferred into the scheme of delegation.</p> <ol style="list-style-type: none"> <li data-bbox="1205 384 2063 456">7. Add a new section 5.3.10 to confirm the rights of CAFT officers to clarify rights of access to records. <li data-bbox="1205 456 2063 491">8. Amend new section 5.3.11 to strengthen the provisions.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The Constitution, Ethics and Probity Committee are required under their terms of reference to proactively review and keep under review all aspects of the Constitution. These proposals are recommended to ensure the smooth running of the Council.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 None considered. The options proposed in this report have been put forward as a result of experience so far in operating the Constitution. The Committee are to consider whether changes are required.

4. POST DECISION IMPLEMENTATION

- 4.1 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 25 July 2017 to make final approval.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Barnet Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively. By keeping the Constitution under review it ensures that the framework in which the Council is governed supports the delivery of corporate priorities and performance.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 There are no resource implications as a result of these proposals.

5.3 Legal and Constitutional References

- 5.3.1 Council's Constitution, Responsibilities for Functions, Annex A – the Constitution, Ethics and Probity Committee terms of reference includes responsibility to "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".

5.4 Risk Management

- 5.4.1 The process of managing changes to the Constitution through the Constitution Ethics and Probity Committee ensures that the proposals are developed through Member participation and consideration.

5.5 Equalities and Diversity

5.5.1 The decision making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

5.6 Consultation and Engagement

5.6.1 None in the context of this decision.

6. BACKGROUND PAPERS

6.1 None.

Decisions of the Constitution, Ethics and Probity Committee

29 June 2017

Members Present:-

Councillor John Marshall (Chairman)
Councillor Melvin Cohen (Vice-Chairman)

Councillor Anthony Finn (In place of Councillor Richard Cornelius)	Councillor Joan Scannell Councillor Alan Schneiderman (In place of Councillor Ross Houston)
Councillor Dr Devra Kay	
Councillor Barry Rawlings	

Apologies for Absence

Councillor Richard Cornelius Councillor Ross Houston

1. MINUTES OF LAST MEETING

RESOLVED that the minutes of the meeting held on 16 March 2017 be approved as a correct record.

2. ABSENCE OF MEMBERS

Apologies for absence had been received from:

- Councillor Richard Cornelius who was substituted for by Councillor Anthony Finn; and
- Councillor Ross Houston who was substituted for by Councillor Alan Schneiderman.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None.

4. REPORT OF THE MONITORING OFFICER

None.

5. PUBLIC QUESTIONS AND COMMENTS (IF ANY)

None.

6. MEMBERS' ITEMS (IF ANY)

None.

7. CONSTITUTION REVIEW

RESOLVED that:

- 1. The Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the table below and the track change versions attached at Appendix A to Appendix E.**
- 2. The Committee recommend to Council that the Constitution be amended to incorporate the changes to the speaking arrangements for planning committees as set out Appendix F.**
- 3. The Committee agree that the Monitoring Officer be delegated authority, in consultation with the Chairman, to make changes to Article 9 (Chief Officers) and Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers) to reflect the new senior management structure agreed by the General Functions Committee on 3 May 2017.**

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	25A Members Code of Conduct – Procedure for Dealing with Complaints	Pages 19 – 38	<ol style="list-style-type: none"> 1. Delete section 1 (Introduction). 2. Delete section 2 (The Members Code of Conduct). 3. Delete section 3 (The Independent Person). 4. Revised the section titled 'Making an Allegation' to refer to the Monitoring Officer rather than a specific named individual. 5. Revised the section titled 'Assessment of an allegation' to clarify the role of the Monitoring Officer and the procedure to be followed 6. Amendments to the section titled 'The investigation'. 	Agreed as per report

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<ol style="list-style-type: none"> 7. Delete the section titled 'Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct'. 8. Delete the section titled 'Where the Monitoring Officer/Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct'. 9. Delete a paragraph from the section titled 'Appeals'. 10. Amend the section titled 'Reports' to change the requirement from the six-monthly report to the Committee to an annual report. 	
2	Responsibility for Functions, Annex B, Scheme of Delegated Authority to Officers	Pages 39 – 40	Amend the Delegated Authority for the Commissioning Director Adults & Health (Director of Adult Social Services) to include a reference to the Care Act 2014.	Agreed as per report
3	Council Procedure Rules	Pages 41 – 61	<ol style="list-style-type: none"> 1. Delete section 2, 16 (Motions for the Adjournment) as this provision is not used in practice. 2. Amend section 6 (Variation) to give only the Mayor the discretion to vary the order of business. 3. Amend section 7 (Suspension of Procedure Rules) to clarify the wording. 4. Delete the heading 'Rules 	Deferred

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>that apply to the whole of council meetings'</p> <ol style="list-style-type: none"> 5. Delete the provision in section 9 (General provision for motions and amendments) that enables a motion to be referred to a committee for consideration. Members are able to add matters for debate to committee agendas via the Members Items mechanism. 6. Delete section 9.4. 7. Delete provision 10.3 (relating to the submission of amendments after 10.30am on the day of the council meeting) from section 10 (Alternations to motions or amendments) 8. Delete section 11 (Withdrawal of business items and amendments) 9. Delete from section 12 (Motions which may be moved without notice) the following provisions as they are irrelevant: 12.14; 12.15; and 12.16 10. Delete section 13 (Motions which may be moved during debate and closure motions) 11. Delete section 14 (Division and voting) 12. Amend section 15 (Voting) 13. Amend section 20 (Rules of debate) to clarify the wording in section 20.4 14. Amend section 22 (Motions) to add restrictions in section 22.1 about debating general 	

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>national issues and remove the provisions at section 23.5 and 23.6 relating to the referral of motions to committees.</p> <p>15. Delete section 26 (Procedure for Policy and Resources budget report)</p>	
4	Officers Code of Conduct	Page 63 – 78	Amend the introduction to include the Nolan Principles.	<p>Agreed as per report subject to the following amendments:</p> <p>In the sections titled Selflessness, Integrity, Objectivity, Openness, Honesty and Leadership delete 'Holders of public office' and replace with 'Officers'</p> <p>In the section titled Accountability revise the wording as follows: "Officers are accountable to their line manager and the Chief Executive who is in turn accountable to elected Members."</p> <p>Agreed to delete the following sentence from section 15.10: 'If the offer of alcohol is accepted, vehicles must not be driven until an appropriate time has elapsed for the</p>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
				alcohol to have left the system.'
5	Financial Regulations	Pages 79 – 84	<ol style="list-style-type: none"> 1. Amend section 5.2.5 to strengthen the wording relating the right of Internal Audit to access systems, databases, etc. 2. Delete section 5.2.14 as this is not a responsibility of the Chief Internal Auditor 3. Delete the word 'Assistant' in section 5.3.1 as the Assurance Director is responsible. 4. Amend section 5.3.5 to update the responsibilities of Investigation Officers. 5. Add a sentence to section 5.3.6 to strengthen the powers of the Assurance Director 6. Amend section 5.3.9 to state that the Assurance Director will maintain a scheme of delegation. Delete sections 5.3.10 to 5.3.16 as these will be transferred into the scheme of delegation. 7. Add a new section 5.3.10 to confirm the rights of CAFT officers to clarify rights of access to records. 8. Amend new section 5.3.11 to strengthen the provisions 	<p>Agreed as per report subject to the following amendment:</p> <p>Amend section 5.3.6 to delete the wording '...have the right to...' and add '...the Leader...' before the Chief Executive.</p> <p>Revised wording to read: 'Irrespective of the organisational position of CAFT, the Assurance Director should report on matters concerning internal audit and internal control directly to the Leader, Chief Executive and the Audit Committee.'</p>

The Committee considered an addendum which proposed changes to speaking rules at planning committees to clarify the number of speakers for and/or against an application due to the current wording being ambiguous. Upon the recommended changes being put to the vote the proposals were approved. Votes were recorded as follows:

In Favour	4
Against	3

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
6	Meetings Procedure Rules	Addendum	<p>7.5 Where there have been requests to speak both in favour and against an application one speaker slot will be reserved for supporters and one for objectors.</p> <p>7.9 Where there are speakers registered only in favour or only against an application and there have been Where more than two requests to speak have been received, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.</p>	Agreed as per addendum subject to the additional of the following text at the end of section 7.8: 'Where there is more than one speaker registered either in favour or against an application, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.'

The meeting finished at 7.41 pm

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PROCEDURE FOR DEALING WITH COMPLAINTS

Arrangements for dealing with allegations that a Councillor/Member or co-opted member of Barnet Council has failed to comply with the Members' Code of Conduct.

In this procedure the reference to 'Independent Person' means a person appointed by the Council pursuant to Section 28 of the Localism Act 2011, whose views may be taken into account before final decisions upon allegations against Members are taken and who may be consulted by a Member who is the subject of allegations or by the Council.

1. Introduction

~~1.1 These arrangements set out how an allegation may be made that an elected member or a co-opted member of Barnet Council has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.~~

~~1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the member or co-opted member against whom an allegation has been made. These arrangements fulfil the Council's statutory obligations.~~

~~1.3 In these Arrangements a number of terms are used which have the following meanings:~~

Member	An elected Councillor
Co-opted Member	A person who is not an elected member of the Council but has been appointed to a committee or sub-committee of the Council.
Monitoring Officer	A officer of the Council designated under section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its members and officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a register of interests of members and co-opted members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.

Independent Person	A person appointed by the Council pursuant to Section 28 of the Localism Act 2011, whose views are sought and taken into account before decisions upon allegations against members are taken and who may be consulted by a member who is the subject of allegations or the Council, generally.
Standards Committee	A committee of members responsible for considering reports of the Monitoring Officer upon allegations that a Member or Co-opted Member has breached the Council's Code of Conduct.

~~2. The Members' Code of Conduct~~

~~2.1 The Council has adopted a Members' Code of Conduct which is available for inspection on the Council's website and on request from the Monitoring Officer.~~

~~3. The Independent Person~~

~~3.1 Pursuant to Section 28 of the Localism Act 2011, the Council shall appoint an Independent Person or Persons. The person(s) appointed shall have responded to a public advertisement for the vacancy and submitted an application for the post. The appointment of the successful applicant shall be approved by a majority of the members of the Council.~~

~~3.2 The views of the Independent Person must be sought by the Monitoring Officer before any allegation is investigated or reported to the Standards Committee~~

~~3.2 The views of the Independent Person may be sought:~~

~~(i) by the Standards Committee or by the Monitoring Officer/Investigating Officer in relation to an allegation in circumstances not within paragraph 3.2, above.~~

~~(ii) by a Member or Co-opted Member of the Council if that person's behaviour is the subject of an allegation.~~

~~14. Making an allegation~~

~~14.1 An allegation that a Member or a Co-opted Member of Barnet Council has failed to comply with the Members' Code of Conduct should be made in writing, wherever possible, to the Monitoring Officer if possible using the Complaint Form on the Council's website ~~to:~~~~

~~Davina Fiore
Monitoring Officer
Barnet Council~~

~~North London Business Park
Oakleigh Road South
London
N11 1NP~~

~~Tel: 0208 8359 6373~~

~~or email:~~

~~Davina.Fiore@barnet.gov.uk~~

- 14.2 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.
- 14.3 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
- 14.4 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 14.5 The Monitoring Officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in her opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.

25. Assessment of an allegation

25.1 The Monitoring Officer will review every allegation received and will ~~consult the Independent Person before taking a decision that an allegation merits reference to the Standards Committee.~~ firstly investigate to see if the complaint can be resolved to the satisfaction of the complainant and the councillor concerned.

~~5.2 If the Monitoring Officer requires additional information in order to reach a decision, she may revert to the person making the allegation for such information and may request information from the member against whom the complaint is directed. If the person making the allegation fails to provide the additional information requested the allegation may be dismissed by the Monitoring Officer pursuant to paragraph 5.3 (c), below.~~

~~2.25-3~~ The Monitoring Officer will use a number of criteria for assessing complaints, and may consult with Political Party Leaders. ~~the Independent Person and if necessary the appropriate party group Whips and party Leaders. The decision whether to investigate a complaint will be a proportionate response to the issues raised and likely outcomes.~~ The Monitoring Officer may determine that an allegation does not merit any further action, where:

- (a) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or

service, or

- (b) It is about someone who is no longer a Member or a Co-opted Member of the Council, or
- (c) There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
- (d) The same or a similar allegation has been investigated and determined, or
- (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
- (f) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination, or
- (g) the complainant is considered to be vexatious.

2.35.4 If the complaint is dealt with under 2.25.3 above, the Monitoring Officer will promptly notify the complainant and the Member of the outcome, giving reasons for the decision.

2.45.6 The Monitoring Officer may also determine that an allegation merits no further investigation having regard to the following additional criteria:

- (a) The allegation is not considered sufficiently serious to warrant investigation, or
- (b) The allegation appears to be motivated by malice or is 'tit-for-tat', or
- (c) The allegation appears to be politically motivated, or
- (d) The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.

2.55.7 Where the Monitoring Officer considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation in accordance with Section 36 below.

2.65.8 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt of the allegation. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially.

36. The Investigation

36.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.

36.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.

36.3 The Monitoring Officer/Investigating Officer will normally write to the Member against whom the complaint is made and provide him/her with a copy of the complaint and ask the member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the papers given to the Member. ~~Where disclosure of details of the allegation to the Member might prejudice the investigation, the Monitoring Officer/Investigating Officer may delay notifying the Member until the investigation has progressed sufficiently.~~

36.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.

36.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send his/her final report (the Investigation Report) to the Monitoring Officer for the latter's consideration prior to onward transmission to the Standards Committee where appropriate. ~~If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.~~

3.66.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution pursuant to paragraph 8.1 below, the Monitoring Officer shall submit the Investigation Report to the Standards Committee and the Independent Person.

7. ~~Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.~~

- ~~7.1 — In these circumstances the Monitoring Officer may decide (a) to take no further action or (b) to refer the matter to the Standards Committee.~~
- ~~7.2 — Where the Monitoring Officer decides to take no further action, the Monitoring Officer will inform the person making the allegation and the Member who is the subject of the complaint of her decision and of the reasons for it.~~
- ~~7.3 — When the Standards Committee receives an Investigation report which recommends that there is no evidence of failure to comply with the Members' Code of Conduct, the Committee may:~~
- ~~(a) — accept the recommendation resolve that no further action is required and dismiss the allegation, or~~
 - ~~(b) — remit the report to the Monitoring Officer for further consideration, or~~
 - ~~(b) — conduct a hearing for the consideration of the allegation and the Investigation Report and determine the allegation.~~
- ~~7.4 — Prior to making a determination under Paragraph 7.1 above, the Standards Committee shall seek and shall take into account the views of the Independent Person.~~

~~**8. — Where the Monitoring Officer/Investigating Officer concludes that there is evidence of failure to comply with the Code of Conduct.**~~

- ~~8.1 — Where an Investigation Report concludes that there is evidence of failure to comply with the Code of Conduct the Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult the Independent Person and the person making the allegation and seek to agree what the person considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee which will note the outcome but take no further action.~~
- ~~8.2 — If the Monitoring Officer considers that an informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will submit the Investigation Report to the Standards Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.~~

49. The Pre Hearing Process and Hearing

- 49.1** A Member or Co-opted Member who is the subject of a complaint which proceeds to a hearing has the right to be legally represented or accompanied at the hearing.
- 49.2** In advance of the Hearing the Monitoring Officer (and/or her nominees) will:
- (a) agree a date for the hearing with all the relevant parties;
 - (b) provide a timetable for the Member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses

- they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
- (c) establish whether the member will be represented or accompanied at the hearing;
- (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
- (e) provide information about the procedure to be used at the hearing;
- (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
- (g) establish whether the Investigating Officer intends to call any witnesses.

- | 49.2 Wherever possible hearings conducted by the Standards Committee Sub-Committee shall take place within three calendar months of the completion of the Investigation Report.
- | 49.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Standards Committee.
- | 49.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.
- | 49.5 If a Member fails to attend the hearing, the Standards Committee may decide to proceed in the Member's absence and make a determination, or to adjourn the hearing to a later date
- | 49.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- | 49.7 The Standards Committee, having sought and taken into account the views of the Independent Person may conclude:
 - (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
 - (b) that the member did fail to comply with the Members' Code of Conduct.
- | 49.8 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Standards Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations to the Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of the Independent Person. It will then decide what action, if any, to take in respect of the matter.
- | 49.9 In the event that votes are tied on a finding on a complaint the Committee will determine that the Member has not breached the Code of Conduct and the allegation will be dismissed.

540. Action which may be taken where a member has failed to comply with the Code of Conduct

540.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Committee may:

- (a) Publish its findings in respect of the Member's conduct;
- (b) Report its findings to Council for information;
- (c) Issue the Member with a formal censure or reprimand, a report of which may be submitted to Council
- (d) Recommend to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Instruct the Monitoring Officer to arrange training for the member;
- (f) Recommend to Council that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council
- (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (h) Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (i) Take no further action
- (j) Any other appropriate sanction which may be available to the Committee.

540.2 The Standards Committee has no power to suspend or disqualify the Member or to withdraw members' or special responsibility allowances.

540.3 At the end of the hearing, the Chairman shall state the decision of the Standards Committee as to whether the Member failed to comply with the Code of Conduct and as to any action which the Committee has resolved to take.

~~510.4~~ As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chairman of the Committee, and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

~~611.~~ **Appeals**

~~611.1~~ There is no right of appeal for either the person making the allegation or for the Member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee

~~11.2~~ ~~If a person making the allegation considers that the Council has failed to deal with an allegation properly, he/she may make a complaint to the Local Government Ombudsman.~~

~~712.~~ **Reports**

12.1 The Monitoring Officer will submit a report to the Constitution, Ethics and Probity Committee at annual six-monthly intervals to inform the Constitution, Ethics and Probity Committee about all complaints which have been received, ~~and not investigated under paragraphs 5.3 or 5.6 of this Protocol, and complaints which have been investigated but not reported to the Standards Committee under paragraph 7.1~~

Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Standards Committee and advised to the parties

1. The Chairman shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
5. Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
6. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
7. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
8. Members of the Committee may question the Member and any witnesses.
9. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
10. The Member or his/her representative may sum up his/her case and make a closing speech.
11. The Chair shall invite the parties to withdraw to enable the Committee to deliberate upon the allegation. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.
12. The parties shall be invited to return and the Chairman shall announce the Committee's decision in the following terms:-
 - (a) The Committee has determined that the Member has failed to comply with the Code of Conduct, or
 - (b) The Committee has determined that the Member has not failed to comply with

the Code of Conduct and the allegation is dismissed.

The Committee will give reasons for its decision.

13. If the Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.
14. The Chairman shall invite the parties to withdraw to enable the Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.
15. In addition to any action upon the current matter, the Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.
16. The parties shall be invited to return and the Chairman shall announce the Committee's decision
17. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

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PROCEDURE FOR DEALING WITH COMPLAINTS

Arrangements for dealing with allegations that a Councillor/Member or co-opted member of Barnet Council has failed to comply with the Members' Code of Conduct.

In this procedure the reference to 'Independent Person' means a person appointed by the Council pursuant to Section 28 of the Localism Act 2011, whose views may be taken into account before final decisions upon allegations against Members are taken and who may be consulted by a Member who is the subject of allegations or by the Council.

1. Making an allegation

- 1.1 An allegation that a Member or a Co-opted Member of Barnet Council has failed to comply with the Members' Code of Conduct should be made in writing to the Monitoring Officer if possible using the Complaint Form on the Council's website.
- 1.2 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.
- 1.3 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
- 1.4 The Monitoring Officer will usually acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 1.5 The Monitoring Officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in her opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.

2. Assessment of an allegation

- 2.1 The Monitoring Officer will review every allegation received and will firstly investigate to see if the complaint can be resolved to the satisfaction of the complainant and the councillor concerned.
- 2.2 The Monitoring Officer will use a number of criteria for assessing complaints, and may consult with Political Party Leaders. The Monitoring Officer may determine that an allegation does not merit any further action, where:
 - (a) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service, or

- (b) It is about someone who is no longer a Member or a Co-opted Member of the Council, or
 - (c) There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
 - (d) The same or a similar allegation has been investigated and determined, or
 - (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
 - (f) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination, or
 - (g) the complainant is considered to be vexatious.
- 2.3 If the complaint is dealt with under 2.2 above, the Monitoring Officer will promptly notify the complainant and the Member of the outcome, giving reasons for the decision.
- 2.4 The Monitoring Officer may also determine that an allegation merits no further investigation having regard to the following additional criteria:
- (a) The allegation is not considered sufficiently serious to warrant investigation, or
 - (b) The allegation appears to be motivated by malice or is 'tit-for-tat', or
 - (c) The allegation appears to be politically motivated, or
 - (d) The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.
- 2.5 Where the Monitoring Officer considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation in accordance with Section 3 below.
- 2.6 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt of the allegation. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially.

3. The Investigation

- 3.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.
- 3.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.
- 3.3 The Monitoring Officer/Investigating Officer will normally write to the Member against whom the complaint is made and provide him/her with a copy of the complaint and ask the member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the papers given to the Member.
- 3.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 3.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send his/her final report (the Investigation Report) to the Monitoring Officer for the latter's consideration prior to onward transmission to the Standards Committee where appropriate.
- 3.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution, the Monitoring Officer shall submit the Investigation Report to the Standards Committee and the Independent Person.

4. The Pre Hearing Process and Hearing

- 4.1 A Member or Co-opted Member who is the subject of a complaint which proceeds to a hearing has the right to be legally represented or accompanied at the hearing.
- 4.2 In advance of the Hearing the Monitoring Officer (and/or her nominees) will:
- (a) agree a date for the hearing with all the relevant parties;
 - (b) provide a timetable for the Member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
 - (c) establish whether the member will be represented or accompanied at the hearing;
 - (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
 - (e) provide information about the procedure to be used at the hearing;
 - (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
 - (g) establish whether the Investigating Officer intends to call any witnesses.
- 4.3 Wherever possible hearings conducted by the Standards Committee Sub-Committee shall take place within three calendar months of the completion of the Investigation Report.
- 4.4 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Standards Committee.
- 4.5 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.
- 4.6 If a Member fails to attend the hearing, the Standards Committee may decide to proceed in the Member's absence and make a determination, or to adjourn the hearing to a later date
- 4.7 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- 4.8 The Standards Committee, having sought and taken into account the views of the Independent Person may conclude:
- (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
 - (b) that the member did fail to comply with the Members' Code of Conduct.
- 4.9 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Standards Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the

Members' Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations to the Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of the Independent Person. It will then decide what action, if any, to take in respect of the matter.

- 4.10 In the event that votes are tied on a finding on a complaint the Committee will determine that the Member has not breached the Code of Conduct and the allegation will be dismissed.

5. Action which may be taken where a member has failed to comply with the Code of Conduct

- 5.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Committee may:

- (a) Publish its findings in respect of the Member's conduct;
- (b) Report its findings to Council for information;
- (c) Issue the Member with a formal censure or reprimand, a report of which may be submitted to Council
- (d) Recommend to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- e) Instruct the Monitoring Officer to arrange training for the member;
- (f) Recommend to Council that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council
- (g) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (h) Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- (i) Take no further action
- (j) Any other appropriate sanction which may be available to the Committee.

- 5.2 The Standards Committee has no power to suspend or disqualify the Member or to withdraw members' or special responsibility allowances.

- 5.3 At the end of the hearing, the Chairman shall state the decision of the Standards Committee as to whether the Member failed to comply with the Code of Conduct and as to any action which the Committee has resolved to take.

- 5.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chairman of the Committee, and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

6. Appeals

- 6.1 There is no right of appeal for either the person making the allegation or for the Member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee

7. Reports

- 7.1 The Monitoring Officer will submit a report to the Constitution, Ethics and Probity Committee at annual intervals to inform the Committee about all complaints which have been received during the year.

Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Standards Committee and advised to the parties

1. The Chairman shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
5. Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
6. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
7. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
8. Members of the Committee may question the Member and any witnesses.
9. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
10. The Member or his/her representative may sum up his/her case and make a closing speech.
11. The Chair shall invite the parties to withdraw to enable the Committee to deliberate upon the allegation. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.
12. The parties shall be invited to return and the Chairman shall announce the Committee's decision in the following terms:-
 - (a) The Committee has determined that the Member has failed to comply with the Code of Conduct, or
 - (b) The Committee has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Committee will give reasons for its decision.

13. If the Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.
14. The Chairman shall invite the parties to withdraw to enable the Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.
15. In addition to any action upon the current matter, the Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.
16. The parties shall be invited to return and the Chairman shall announce the Committee's decision
17. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

DELEGATED AUTHORITY FOR THE COMMISSIONING DIRECTOR FOR ADULTS & HEALTH (DIRECTOR OF ADULT SOCIAL SERVICES)

Responsibility for functions including:

Exercise the functions of the Council with regard to the delivery of those functions in respect of adults (other than those for which the Director of Children's Services is responsible)	Section (1a) and Schedule 1 of the Local Authority Services Act 1970
Exercise of all functions, powers and duties of an Adult Services Authority including, but not limited to Social Services, safeguarding of adults, Deprivation of Liberty, Mental Health services and Health functions	<u>Pursuant (but not limited) to the Care Act 2014</u>
Arrangement for the effective operation of the Council's responsibilities for the assessment, purchase and provision of social care services for adults including people disabilities, older people, people with mental health needs, people with substance misuse problems and adults with learning disabilities.	Council
Assessment of the need for, and where necessary provide, services and/or residential accommodation for those suffering from a disability, including a mental disability.	Pursuant (but not limited to) the National Assistance Act 1948, the Mental Health Act, the Chronically Sick and Disabled Persons Act, the Disabled Persons (Services, Consultation and Representation) Act, the National Health and Community Care Act, the Health and Social Care Act and the Mental Capacity Act.
Assessment and planning to meet the needs of carers of vulnerable people.	The Carers and Disabled Children Act 2000.
Acting as the 'appropriate adult' in relation to persons with a mental disorder (which may include a disability) who are detained at a police station.	The Police and Criminal Evidence Act
Leadership of the continuous improvement of high quality care and support services to adults including the development of commissioned and care and support services and the delivery of assessment/care	Council

management services (including ensuring resource allocations to eligible individuals to but care and support).	
Having regard to Section 3 (Delegation of Powers) authority for commissioning services and making any decision for the operational effectiveness of health & well-being partnerships, adult social care, adults safeguarding, sports & physical activity and leisure services	Council

OFFICERS CODE OF CONDUCT

1. Introduction

Council workers are delivering a service to the public using tax payers' money, and as such the council expects these staff to exhibit exemplary standards of behaviour. Without exception, they must behave with integrity and demonstrate an honest, open and transparent attitude to their work. Where a worker believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, may be treated as a disciplinary issue.

When acting as a council officer you must be committed to behaving in a manner that is consistent with the following principles to achieve best value for the borough's residents and maintain public confidence in this authority:-

SELFLESSNESS: Officers should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Officers should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Officers should make choices on merit.

ACCOUNTABILITY: Officers are accountable to their line manager and the Chief Executive who is in turn accountable to elected Members.

OPENNESS: Officers should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Officers have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Officers should promote and support these principles by leadership and example.

In addition to the duties of their post, Council workers have an obligation to comply with statutory duties as set out by the Information Commissioner's Office, and the Equality Act 2010.

- 1.1. The National Joint Council for Local Government Services (the Green Book) and the Constitution Salaries Conditions of Service (Joint Negotiating

Committee for Chief Officers of Local Authorities) says: “Employees will maintain conduct of the highest standards that public confidence in their integrity is sustained. Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.”

- 1.2. This Code of Conduct applies to all employees and workers under a contract with the council. Governing bodies of non-community schools and partner organisations in receipt of public funds should be encouraged to adopt this Code of Conduct.

2. Standards

- 2.1. Council workers are expected to give the highest possible standard of service to the public, and to provide appropriate advice to Councillors and fellow workers with impartiality. They will be expected to raise matters without fear of recrimination to their manager or Senior manager or if they do not wish to do that, to bring it to the attention of the Chief Executive or make a report via the whistle blowing policy. In the event that the matter relates to the Chief Executive it should be raised with the Council’s Monitoring Officer.

3. Council Information

- 3.1. London Borough of Barnet (LBB) policies on information management and security can be found in the employee handbook. These policies outline responsibilities for the management and security of Barnet Council information. It is a condition of employment at Barnet Council that staff work at all times in accordance with these policies. The policies may be amended and added to from time to time and the intranet site will show the most recent policies which staff must observe.
- 3.2. Line managers are responsible for ensuring that staff are supported in complying with council information management (IM) policies and staff should identify to their line manager any concerns that prevent compliance with the policies. The Council will consider very seriously any alleged breaches of these policies which may be dealt with under the Council’s Disciplinary Procedure.
- 3.3. It is generally accepted that open and transparent government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Staff must be aware of the authority’s policies and of their duties in relation to the handling of both personally and commercially sensitive information. If in doubt guidance should be sought from management before information is disclosed.
- 3.4. The Council has a process for dealing with information requested under the Freedom of Information Act 2000. The Freedom of Information (FOI) Policy, Media Request Protocol and FOI Staff Guidance is published on the intranet. All requests made under the FOI legislation must be passed to the FOI team where they will be logged and tracked. Each directorate has an FOI Link

Officer responsible for co-ordinating responses and ensuring that the directorate is compliant.

- 3.5. Staff should not use any information obtained in the course of their employment that is not in the public domain for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 3.6. Information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

4. Political neutrality

- 4.1. Staff must conduct their council duties in a politically neutral manner without regard to their personal political persuasions.
- 4.2. They must serve all Councillors and not just those of the controlling group, and must ensure that the individual views of all Councillors are respected.
- 4.3. Subject to the authority's conventions, staff may also be required to advise political groups, in ways which do not compromise their political neutrality.
- 4.4. The Council maintains a list of politically restricted posts. Holders of posts designated politically restricted will have this stated in their contract. They have limitations placed upon them in terms of active membership of political parties or holders of office within them. They are restricted to bare membership of a political party without playing any active role within the party or undertaking any canvassing.
- 4.5. Staff, whether or not politically restricted, must follow every lawful expressed policy of the authority, regardless of their personal or political opinions.

5. Relationships

5.1. Councillors

Staff are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between staff and Councillors is essential to good local government. Close personal familiarity between staff and individual Councillors can damage the relationship and prove embarrassing to other staff and Councillors and should therefore be avoided. The Council has protocols and etiquette around working with Councillors and managers should ensure new recruits are aware of these.

5.2. The Local Community and Service Users

Staff should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

5.3. Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against tenders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

5.4. Soliciting or being solicited for employment

Where Council staff engage in discussions about future employment with any organisation, contractor or partner with whom the council either has a contractual relationship or is in the negotiation stages of a possible contractual arrangement then this must be declared prior to being developed further to: the Head of Service or Chief Officer as appropriate, or Chief Executive where the person is themselves a Head of Service or Chief Officer. The Council reserves the right to temporarily redeploy staff to a suitable alternative post where such discussions are taking place.

5.5. Managers will make a note of relationships and personal interests, declared to them by staff, any risks identified and the mitigating action taken and send this note to Human Resources who will keep this information on the employee's personal file.

6. Recruitment, Employment and Promotion of Relatives

6.1. Staff involved in all types of recruitment, whether to permanent, or fixed term roles, should ensure that these selection decisions are made on merit. It would be unlawful for an employee to make an appointment or promotion which was based on anything other than the ability of the candidate to undertake the duties of the post.

6.2. In order to avoid any possible accusation of bias, the Council has agreed a policy on the Recruitment and Employment of Relatives which forms part of the Recruitment and Selection Guidelines. The aim of the guidelines is to ensure that high standards of conduct and good practice are maintained in the management of staff and working relationships across the Authority. It has been drawn up with due regard to the Council's Equal Opportunities Employment Policy. This policy applies to the recruitment, selection, appointment and promotion of "close relatives" of existing staff or in cases where two workers become "close relatives", e.g., marry, commit in the form of a Civil Partnership, or co-habit as partners.

6.3. The Council recognises that some people meet their partner at work. However, in circumstances where a relationship develops with a colleague who works in close proximity and in particular where a couple are in a line management relationship, care must be taken that there is no unfair advantage or opportunity afforded. In these circumstances, the relationship must be declared to the Head of Service or Chief Officer as appropriate, and a decision will be made about the risk to the organisation and the possibility of redeployment of one individual.

- 6.4. The definition of “close relative” for the purposes of this policy statement includes spouse, partner, close family members, e.g., mother, father, sister, brother, offspring (whether child or adult) and other persons with whom there is a close personal relationship. Management discretion should be applied when considering extended family and also situations where one party would have a vested interest in the appointment of the other.
- 6.5. In the interests of the Council’s service provision and for reasons of public confidence, the Council shall not allow an Officer to be involved in the recruitment, selection, promotion or appointment in the circumstances where the parties have a relationship as defined above. The recruiting manager will make a note of any declared relationship, the risks identified and mitigation of those risks (alternative panel member etc) and place this with the recruitment papers of the individual concerned.
- 6.6. In addition, it follows that this policy should be extended to all personnel-related matters and that any direct involvement in staffing matters relating to a close relative is also unacceptable e.g. disciplinary, grievance and grading, etc.
- 6.7. Similar standards should be applied to the selection and appointment to interim, agency, contractor or consultancy opportunities. The award of contracts should follow a transparent process as set out in the Council’s Contract Procedure Rules and Procurement Code of Practice.

7. Additional Employment

- 7.1. Staff should be clear about their contractual obligations and should not take outside employment or engage in any business which conflicts with the authority’s interests. Staff must not seek to benefit personally by using experience, training or materials gained through their employment with the council to seek or accept work with Barnet’s contractors, suppliers or partners.
- 7.2. Staff must not use the Council’s contacts and suppliers in order to set up a venture on their own account, in competition with or to the detriment of the Council.
- 7.3. Current policy in Barnet (but subject to each individual case being considered on its merits and in accordance with the Council’s personnel procedures), states that in order to avoid any conflict of interests, all staff involved in any proposed Management Buy Out be given unpaid leave of absence pending a conclusion or, if directly involved in negotiating the buy out, be asked to resign from the Council’s service.
- 7.4. Staff must not take up any other employment or engage in any business without written approval.

- 7.5. Approval to undertake additional employment or engage in any business will depend on the circumstances of the Officer's particular situation. Any additional employment must not in the view of the Authority be likely to conflict with or be detrimental to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business. Situations where staff fail to seek permission or disclose details of their additional employment will be dealt with under the Council's Disciplinary Rules and Procedure and could result in the employee's dismissal for gross misconduct.
- 7.6. Assistant Directors (ADs) and above are empowered to decide whether officers should be permitted to take up part-time employment or engage in any business in addition to their full or part-time appointment with the council. The decision in this respect should be communicated in writing to the employee concerned. A copy must be placed in their personal file. Requests from AD and above should be referred to the Chief Executive for a decision.
- 7.7. With regard to holders of job share or part-time posts, each case will be looked at on an individual basis by the AD or Chief Executive as appropriate.
- 7.8. Where in doubt, staff should seek advice from their AD.

8. Intellectual property

- 8.1. Intellectual property is a generic term that includes inventions, applications, programmes, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.
- 8.2. Inventions and Patents
Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if: they have been made in the course of the employee's normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might reasonably be expected; or it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

9. Conflict of interest

- 9.1. Staff must declare any non-financial interests that they consider could bring about conflict with the authority's interests e.g. involvement with an organisation or pressure group which may seek to influence their authority's policies or acting as a School Governor within schools maintained by the authority.
- 9.2. Where a worker believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this

potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue.

- 9.3. Further guidance notes will be issued with the declaration form that will be used to declare interests, to distinguish the types of membership of groups that require to be declared. It is not intended for staff to declare membership of legitimate political parties or Trade Unions.
- 9.4. Any interests, financial or otherwise which could conflict with the authority's interests must be declared e.g. involvement with an organisation applying for or receiving grant aid from the authority, or involvement with an organisation that is seeking to contract with the council or is already a contractor or client. It is accepted that some staff may be members of organisations and groups and have no active involvement in the group. However, there is an expectation that where an employee is involved in the running of the group or organisation, has a financial interest or otherwise, or is involved as a Committee member, or in the decision making process, that this would be declared. Likewise those who are asked to undertake work in response to a request from a group or organisation of which they are a member would be wise to declare their membership.
- 9.5. Staff must declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct.
- 9.6. The completed declaration of interest form will be reviewed by an appropriate AD to consider any action that may be necessary before being placed on the employee's personal file.
- 9.7. The declaration of interest is not a historical document to reflect the situation at time of entry to the Council's employment, rather an evolving document that must be kept up-to-date. It is the responsibility of the employee to ensure that as their circumstances change during the time of their employment that they keep their declaration up-to-date. Should an employee need to amend or review a declaration they must contact Human Resources and complete a new declaration and send this to the appropriate AD for review before it is placed on personal files.
- 9.8. Declaration forms are securely stored and would not be open for inspection to staff, other than by their Senior Managers (at AD level) or HR. These managers /HR may need to check declaration forms should either membership of an organisation or pressure group emerge or, should there be suspicion that a relationship has emerged which was relevant to the staff member's duties and is contrary to the Code of Conduct. FOI requests relating to such information would be redacted to ensure identifying information is excluded.
- 9.9. Any member of staff who is in any doubt as to whether or not specific outside interest exists and should be declared should contact their AD for guidance.

- 9.10 At the start of each procurement exercise, all staff must complete a new procurement declaration of interest form which must then be stored with the Service's Scheme of Delegation for Audit purposes. This completed form will also be reviewed by an appropriate AD to consider any action that may be necessary. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue and a potential breach of the Council's Contract Procedure Rules.

10. Workers and Residents

- 10.1. In circumstances, where an LBB worker who is also a resident of LBB wishes to make an opinion about the policies being followed by the Council then such expressions of opinion must make clear that the person concerned is expressing an opinion as a resident of LBB and not as a Council worker.
- 10.2. The worker must ensure that they do not divulge any information that is not already in the public domain.
- 10.3. Where opinions are expressed on TV, film, website, social networking site or in photographs, the worker must not wear any badges or clothing which would readily identify the individual as a worker at the Council.
- 10.4. Should a worker express an opinion without making clear that he or she is making that opinion as a resident of LBB or he or she is wearing badges or clothing that readily identifies the individual as a worker at the Council, he or she may be subject to a disciplinary process.
- 10.5. Council staff who are Trade Union officials must not make statements about Council business without making it clear that this is in their official union capacity in accordance with agreed working protocols.

11. Equal Opportunities in Employment

- 11.1 Barnet Council already has an existing policy on and is committed to equal opportunities. The aim of the Council's policy is to ensure that no job applicant or employee receives less favourable treatment on the grounds of age, sex, sexuality, disability, marital status, nationality, colour, race, religion or ethnic origins. Selection criteria and employment policies and procedures will be kept under review to ensure that individuals are selected, promoted, trained and treated on the basis solely of their relevant and relative merits, abilities, training and potential.
- 11.2 All staff should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees and workers have a right to be treated with fairness and equity.

12. Separation of Roles During Tendering

- 12.1 Staff involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior staff who have both a client and contractor responsibility must be aware of the need to demonstrate accountability and openness.
- 12.2 Staff in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers other contractors and sub contractors.
- 12.3 Staff who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised third party or organisation.
- 12.4 Staff should ensure that no special favour is shown to current or recent employees and workers or their partners, close relatives or associates in awarding contracts to businesses.

13. Use of Financial Resources

- 13.1 Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.
- 13.2 In addition, staff must consider financial matters solely with regard to the public interest and in accordance with the council's financial regulations.

14. Corruption

- 14.1 It is a serious criminal offence in an official capacity, to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour, to any person, group or organisation. If it is proved that some kind of reward was given to or received by the employee, then the onus is on the staff member to disprove corruption.

15. Gifts, Hospitality and Sponsorship

- 15.1 In the course of their work for or on behalf of the Council, staff may be offered gifts, hospitality or sponsorship by contractors, consultants, clients or other members of the public. In some instances, accepting such gifts could place staff in a serious predicament, open to allegations of bribery and corruption, disciplinary proceedings and or criminal investigation.
- 15.2 These guidelines are designed to protect workers from such allegations, proceedings or investigations. It is essential that workers are open, and not secretive in their relationships with outside agencies and at all times act in a manner that will protect the integrity and reputation of the Council. Under no circumstances should gifts, hospitality or sponsorship be accepted to give personal, commercial, regulatory or contractual advantage (acceptance of bribes). All workers are required to have an understanding and awareness of the Counter Fraud Framework – Bribery Policy Statement and Procedure.

- 15.3 Accepting bribes is a matter to be investigated by the Corporate Anti Fraud Team (CAFT) and could result in prosecution.
- 15.4 Any gift, hospitality or sponsorship that is offered in connection with work undertaken for the Council (whether accepted or not) must be recorded in writing, immediately on receipt, or offer, on the Hospitality, Gifts and Sponsorship Declaration Form. For the avoidance of doubt, it is required to fully complete the declaration form on each and every occasion that an offer of a gift, hospitality or sponsorship is made, unless there is an exemption for gifts, etc. below a specified value threshold.
- 15.5 After completion, the declaration form must then be passed immediately to the line manager. Once the line manager has completed their section they should then immediately pass the declaration form to the Council's Monitoring Officer. The Monitoring Officer will consider if further action is appropriate. The Monitoring Officer will then pass the declaration form to a Governance Officer for inclusion in the central register recording receipt/offers of gifts, hospitality and sponsorship to Council officers. In the interests of transparency the Council may publish the "gifts hospitality and sponsorship" register, but will delete personal data, where it is appropriate to do so.
- 15.6 **Minor gifts/hospitality under £25**, e.g. calendars, diaries, stationery items, need not be recorded. The same applies to the receipt of minor hospitality e.g. tea and biscuits. Where unsolicited gifts, with a value of less than £25, such as a bottle of wine, food, confectionery, etc are offered, these can be accepted, and if not capable of sharing with colleagues, residents/users (e.g. of a social services' establishment), they may be kept for personal use or donated to the Mayor's charity. Staff should declare multiple gifts received (in a period of 12 months) from the same donator/company whether or not they exceed £25.
- 15.7 **Gifts of higher value**, e.g. cases of spirits, clothes, jewellery, holiday bookings, holiday discounts and electrical equipment, must not be accepted and, if received, should be returned to the sender, but must still be recorded on the declaration form as having been received and returned unused or as directed by the Assurance Assistant Director (to whom such gifts must be separately reported by you).
- 15.8 **Cash, Cheques, Money Orders**, or any monetary form offered to or received as a gift or otherwise must not be accepted, under any circumstance, and any such offers must still be recorded on the declaration form as having been received and returned unused or as directed by the Assurance Assistant Director (to whom such offer or receipt must be separately reported by you)
- 15.9 **Discounts**, It is not permitted, on a personal basis, to take advantage of discounts which have been offered or negotiated by the Council with its suppliers for the purchase of goods, materials or services, unless the discount has been negotiated specifically as a benefit available to all staff or to a specific group of staff (of which the individual claiming the discount is a member).

- 15.10 **Hospitality**, The Council recognises that from time to time there is a need for certain officers to attend business functions where they may receive hospitality in the form of light refreshments, drinks and/or meals. Such hospitality may be accepted when provided in the course of normal business - e.g. lunch at a contractor's expense during a business meeting or function, provided that it is recorded in the gifts, hospitality and sponsorship register (subject to the exemption for minor hospitality previously referred to). ~~If the offer of alcohol is accepted, vehicles must not be driven until an appropriate time has elapsed for the alcohol to have left the system.~~ Individuals should consider whether the acceptance of hospitality could affect or may reasonably be perceived as likely to affect the outcome of a business transaction involving the Council or may otherwise be reasonably perceived as not appropriate and/or not bona fide expenditure.
- 15.11 **Prestige Events**, Invitations to prestige events, such as Wimbledon and Royal Ascot and other events such as football matches, theatre, opera, or weekend breaks must not be accepted, and offers must be recorded on the declaration form. Consideration may be given to attendance at certain events if that attendance is in connection with the business purposes or otherwise in the interests of the Council, but authorisation must be obtained from your line manager and approved by the Monitoring Officer before any attendance and this must be recorded on the declaration form.
- 15.12 **Sponsorship**, Attendance at sponsored conferences and other business related events would be permissible provided that such attendance is either necessary for the business purposes or otherwise in the interests of the Council or it is normal practice for officers in local authorities or other public bodies to attend. Attendance must be recorded on the declaration form.
- 15.13 **Council workers providing personal care**, such as Care Workers, Home Helps and Wardens of sheltered housing accommodation can sometimes be offered jewellery, money or other gifts, or bequests of substantial value by clients. There are special considerations when dealing with elderly, confused or otherwise vulnerable clients, as accepting such gifts may place staff in a vulnerable position. Any such offers from clients, or their relatives, friends or other members of the public, must be reported immediately to the line manager. Where-ever possible gifts from clients should be refused, and they may only be accepted if to refuse would give offence, they are under the value of £25, a declaration form has been completed (even though below the normal value threshold) and with the prior consent of the employee's line manager and the Monitoring Officer.
- 15.14 There are certain groups of employee (e.g. Refuse Officers, Enforcement Officers, Purchasing/Procurement Officers, Planners, Major Programme/Project leads) for whom it would be inappropriate to receive any gifts or hospitality in view of the nature of their work. Holders of these roles will be notified by their Assistant Director (or other appropriate senior officer) of any additional rules which apply.
- 15.15 **No gifts or hospitality are to be accepted from contractors who are considering or submitting a tender during a tendering period.**

15.16 Records may be subject to inspection.

15.17 Failure to adhere to this code of practice will be regarded as gross misconduct and could lead to dismissal.

16. Sponsorship – Giving and Receiving

16.1 Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

16.2 Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, staff should ensure that impartial advice is given and that there is no conflict of interest involved.

17. Use of Internet, Intranet and e-mail facilities

17.1 The Council's electronic assets, including PC/laptop/phone, e-mail, Internet web access and Intranet facilities are provided to assist Council business and are not intended for personal use. (See the Information Governance (IG) policies and procedures for detailed guidance).

17.2 Accessing, storing or transmitting offensive material via e-mail, the Internet or the Intranet is expressly prohibited. Offensive material includes, but is not limited to, pornographic, racist, terrorist and sexist material.

17.3 The usage of web and e-mail addresses will be logged and audited on a regular basis. Any apparent misuse of these facilities may lead to disciplinary action being considered.

17.4 Up-to-date information on the Council's Acceptable Use Policy is available on the Internet and should be regularly reviewed by users of the Council's Internet and Intranet facilities.

17.5 Social Media - It is not acceptable for workers of the Council to make use of social media to post opinions, write blogs, tweet (or equivalent) about Council business unless in an authorised capacity on an official Barnet internet site, blog or twitter account. Staff who are residents must make it clear through their communication and dress that views being expressed are personal and do not reflect those of the Council. Failure to comply with this, with the result that the Council is or could be brought into disrepute, could result in disciplinary action.

17.6 It is not permitted for Council workers to provide information to third party authors of blogs or online content about the Council. In cases where it is

discovered that confidential information has entered the public domain, the Council will investigate and may use forensic electronic methods to discover the source.

18. Application of the Code of Conduct

- 18.1 There will be specific mention of the Code of Conduct in the contract of employment for new starters and that they could be required to declare interests after the selection process but before taking up their posts.
- 18.2 Any apparent breaches of this Code of Conduct will be fully investigated by the appropriate manager and any proceedings would follow the normal disciplinary procedures of the Council and in serious cases could also result in prosecution.

19. Guidance to staff entering premises where an adult is not present

- 19.1 It is Council policy that when visiting a child, an adult must be present. When making appointments, always make it clear that an adult must be present when the visit takes place.
- 19.2 Where a visit takes place and it is still found that a child below the age of 16 is alone and showing obvious signs of distress, call the police immediately using 999 and report the circumstances. Stay with the child while waiting for the police and then hand over responsibility. Ensure you inform your manager and record your actions.
- 19.3 Staff have a duty to report any concerns they may have in relation to the safety and protection of unsupervised children they may come across in the course of their work.

20. Criminal Offences

- 20.1 It is a condition of employment that you advise the Chief Executive immediately if you are charged, cautioned or convicted of a criminal offence, including offences against children. Personal information which you supplied to the Council will be stored on computer systems and will, therefore be subject to the provisions of the Data Protection Act 1998.

21. Fraud

- 21.1 The Council is under a duty to protect public funds it administers. To this end any information which the Council obtains as a consequence of your employment may be used for the detection of fraud. The information may, where necessary, be used by the council and provided to other bodies administering public funds for the detection of fraud.

22. Restraint of Trade – HAY Graded Staff

22.1 The Council reserves the right to take action where an individual's actions or employment on leaving are detrimental to its interests

APPENDIX- HOSPITALITY, GIFTS AND SPONSORSHIP DECLARATION FORM (Page 1 of 2)

NB this will be an online process

Date hospitality, gift or sponsorship offered/received:	
Name of person offered/receiving the hospitality, gift or sponsorship:	
Work address:	
Directorate:	
Hospitality, gift or sponsorship received from:	
Details of hospitality, gift or sponsorship offered/received:	
Approximate value of hospitality, gift or sponsorship offered/received:	£
<p>Declaration: <i>(please delete as appropriate)</i></p> <p>1. The hospitality, gift or sponsorship was offered but was declined.</p> <p>2. I declare that the gift/hospitality/sponsorship has been/will be accepted and is entirely consistent with the requirements of the Council's Code of Practice on Gifts, Hospitality and Sponsorship and that no business decisions have or will be influenced by the acceptance and that no advancements or personal gain have been or will be obtained.</p> <p>I confirm that I have read and understand the Code of Practice on Gifts, Hospitality and Sponsorship and the Bribery Policy Statement and Procedure – Counter Fraud Framework and have made all necessary declarations during the last year.</p>	
Print Name:	
Signed and dated:	
(If the declaration is made by e-mail , state by e-mail in the signature box above)	

HOSPITALITY, GIFTS AND SPONSORSHIP DECLARATION FORM
(Page 2 of 2)

<p>Managers Statement:</p>	<p>I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff for whom I have line management responsibility. I consider the action taken by the member of staff to be reasonable and it has my approval/ I have taken the following action with regard to the matter:</p>
<p>Print Name:</p>	
<p>Signed and Dated:</p>	
<p>Monitoring Officer statement:</p>	<p>I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff. I have taken account of the line manager's comments. I consider the action taken by the member of staff to be reasonable and it has my approval / I have taken the following action with regard to the matter:</p>
<p>Print Name:</p>	
<p>Signed and dated:</p>	

To be completed by Governance Officer as confirmation of inclusion in register

<p>Print Name</p>	
<p>Signed and dated.</p>	

5.2 INTERNAL AUDIT

- 5.2.1 Under the Accounts and Audit Regulations 2011 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.
- 5.2.2 The Chief Internal Auditor is responsible for providing an internal audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS). He / she is also responsible for providing an opinion, in support of the Annual Governance Statement, on how the Council's risk management processes identify, evaluate, monitor and report that controls are operating effectively within the Council. The Chief Internal Auditor helps the Chief Finance Officer discharge his/her responsibilities under section 151. Irrespective of the organisational position of internal audit, this officer should have the right to report on matters concerning internal audit and internal control directly to the Chief Executive and the Audit Committee.
- 5.2.3 Internal Audit is an assurance function that provides 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.'
- 5.2.4 Management are responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal Audit plays a vital part in advising the organisation that these arrangements are in place and operating properly. The annual internal audit opinion, which informs the Annual Governance Statement, both emphasises and reflects the importance of this aspect of internal audit work. Management's response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisation's objectives.
- 5.2.5 Internal Audit has unrestricted access to all information (including records, computer files, databases, systems, property and personnel) across any service and/or activities undertaken by the Council, or partners on the behalf of the Council where council information is held in order to review, appraise and report on:
- the adequacy and effectiveness of the systems of financial, operational and management control and their operation in practice in relation to the business risks to be addressed;
 - the extent of compliance with, relevance of, and financial effect of, policies, standards, plans and procedures established by the Council and service management and the extent of compliance with legislation and regulations, including reporting requirements of regulatory bodies;
 - the extent to which the assets and interests are acquired economically, used efficiently, accounted for and safeguarded from losses of all kinds arising from waste, extravagance, inefficient administration, poor value for

money, fraud or other cause and that adequate business continuity and risk management strategies exist;

- the suitability, accuracy, reliability and integrity of financial and other management information and the means used to identify, measure, classify and report such information;
- the integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of all kinds; and that the process aligns with the Council's strategic goals;
- the suitability of the organisation of the units audited for carrying out their functions, to ensure that services are provided in a way which is economical, efficient and effective;
- the follow-up action taken to remedy weaknesses identified by Internal Audit review, ensuring that good practice is identified and communicated widely; and
- the operation of the Council's Governance arrangements.

5.2.6 Independence

Internal Audit should be independent of the activities that it audits to enable auditors to perform their duties in a way that allows them to make impartial and effective professional judgements and recommendations. Internal auditors should not have any operational responsibilities.

5.2.7 Audit advice and recommendations, including where Internal Audit has been consulted about significant changes to the internal control systems, are given without prejudice to the right of Internal Audit to review and make further recommendations on the relevant policies, procedures, controls and operations at a later date.

5.2.8 The status of Internal Audit should enable it to function effectively. The support of the organisation is essential and recognition of the independence of Internal Audit is fundamental to its effectiveness. The Chief Internal Auditor should have direct access to and freedom to report in his or her own name and without fear or favour to, all officers and members and particularly to those charged with governance.

5.2.9 The Chief Internal Auditor shall be able to meet the Chairman of the Audit Committee alone outside of the normal Audit Committee meetings.

5.2.10 Responsibility & Authority

Internal Audit is an integral part of the organisation and functions under the policies established by management and the Council.

5.2.11 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.

5.2.12 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.

5.2.13 The Chief Internal Auditor shall report to the Chairman of the Audit Committee all significant concerns that he/she may have over the adequacy and effectiveness of internal controls and risk management activities within the organisation.

~~5.2.14 Ethical Governance~~

~~The Chief Internal Auditor shall raise the profile and awareness of governance activities throughout the Council and set standards for modern, proactive and cost-effective governance in the Council.~~

5.3 CORPORATE ANTI-FRAUD TEAM (CAFT)

5.3.1 Under Section 151 of the Local Government Act 1972 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 Assurance ~~Assistant~~ Director has the delegated authority for providing and maintaining this service.

5.3.2 As part of these Regulations, Directors should ensure that there are arrangements to enable staff and the public to raise and report any issues of concern in accordance with the Council's Whistleblowing policy.

5.3.3 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 Council has a zero tolerance approach to fraud and other irregularity.

5.3.4 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.

5.3.5 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;
- ensure there are appropriate policies (Counter Fraud Framework) and procedures in place as well as effective systems for 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;

- Where appropriate provide the organisation, its employees and business partners with a comprehensive guide/advice –in relevant areas such as fraud, corruption, bribery and anti money laundering and other legislation relating to the proceeds of crime.

5.3.6 Independence

CAFT officers are independent when they 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. Irrespective of the organisational position of CAFT, the Assurance Director should report on matters concerning internal audit and internal control directly to the Leader, the Chief Executive and the Audit Committee.

5.3.7 Responsibility & Authority

The primary responsibility for the awareness, prevention, detection and deterrence of fraud, corruption, bribery or money laundering activity lies with the Chief Officers. This responsibility includes ensuring that staff and partners are aware of both the implications of fraud and money laundering and the risks of fraud and money laundering across their service area. The primary responsibility for the investigation of any suspected fraud, corruption, bribery or money laundering activity 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.

5.3.8 All Council Members and employees are personally responsible for ensuring they (and any subordinates) are aware of the Council's Counter Fraud Framework and the procedures and policies within it. All suspected breaches must be reported to the Assurance ~~Assistan~~ Director, the Chief Internal Auditor or any member of the CAFT.

5.3.9 The Assurance Director will maintain a scheme of delegation that will set out duties and responsibilities in relation to counter fraud activities. Assistant Director will nominate an officer to undertake the duties of the Council's Money Laundering Reporting Officer as detailed within the Council's Anti Money Laundering Policy Statement and procedure.

~~5.3.10 The Assurance Assistant Director is the designated Whistleblowing officer for the London Borough of Barnet and shall undertake the responsibilities of the role as described within the Council's Whistleblowing Policy.~~

~~5.3.11 The CAFT Counter Fraud Manager – Benefit Fraud is the officer designated by the Secretary of State under the provisions of the Social Security & Administration Act 2001 to act as the Authorised Officer 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.~~

~~5.3.12 The Assurance Assistant Director is designated as the London Borough of Barnet's 'Senior Appropriate Officer' for the authorisation of production orders, restraint orders, customer information orders and account monitoring orders as described within the Proceeds of Crime Act 2000.~~

~~5.3.13 The Assurance Assistant Director and/or the CAFT Counter Fraud Managers are the London Borough of Barnet's responsible officers for the authorisation of arrest and prosecution of offenders including deciding on any appropriate sanction action available within the law. Those officers are responsible for ensuring that all CAFT investigations are conducted in accordance with the Criminal Procedures & Investigations Act 1996 (CPIA) the Police & Criminal Evidence Act 1984 (PACE) and the Human Rights Act 2000.~~

~~5.3.14 The Council's Senior Responsible Officer in relation to the Regulation of Investigatory Powers Act 2000 (RIPA) has been designated as the Monitoring Officer. The Assurance Assistant Director and the CAFT Counter-Fraud Managers are the designated officers for the authorisation of directed surveillance and use of Covert Human Intelligence Source (CHIS) as defined within the Regulation of Investigatory Powers Act 2000 (RIPA). All investigating officers granted authorisation to carry out directed surveillance or use of a covert human intelligence source by a designated officer of the Council are authorised to appear before the Magistrates Court on behalf of the Council to apply for judicial approval in accordance with the requirements of sections 37 and 38 of the Protection of Freedoms Act 2012.~~

~~5.3.15 That the Assurance Assistant Director and CAFT are authorised to act as 'Enforcement Officers' as defined and set out within the requirements of the Disabled Persons Parking Badges Act' 2013.~~

~~5.3.16 That the Assurance Assistant Director and CAFT are authorised to request and share information obtained under the 'Prevention of Social Housing Fraud Act' 2013 for the purposes of housing fraud investigation.~~

5.3.10 CAFT have unrestricted access to all council held information and records (including computer files, databases, systems, property and personnel) across any service and/or activities undertaken by the Council, or partners on the behalf of the Council, in order to effectively carry out their duties:

~~5.3.171 CAFT or The Chief Finance Officer (Section 151 Officer), or other authorised representative, representative such as the Monitoring Officer, the Assurance Assistant Director, the Chief Internal Auditor and all CAFT Investigation Officers shall have authority to:~~

- Enter or visit any land, premises, offices or establishments of the Council; and carry out any necessary searches of the aforementioned.
- have unrestricted access to, [access, view,](#) search, and remove any and all records, documents and correspondence, including electronically held correspondence, documents and records, and property and assets of the Council;
- where requested by CAFT view only access to specific databases/systems which hold council data
- receive such explanations as are necessary concerning any matter under examination, and / or fraud investigation;
- in conjunction with the relevant Chief Officer, suspend any employee of the Council under CAFT investigation from duty: acting in accordance with the Council's disciplinary procedures; and, in cases concerning illegal working,

employees may be exited from the organisation and/or may be suspended without pay pending investigation.

- require any employee of the Council to produce and surrender any cash, stores, equipment or any other Council property under his or her control
- interview any and all employees and individuals in connection with investigations including where necessary interviews in accordance with the Police & Criminal Evidence Act (on tape).

Meetings Procedure Rules

7.3 Requests to speak at Planning Committees and Area Planning Committees

- 7.5 Requests to speak should be submitted to the relevant Planning Case Officer by 10am on the third working day prior to the meeting.
- 7.6 A maximum of three speakers are able to address the committee on each application or item.
- 7.7 In respect of planning committees only, there can be a maximum of two speakers in favour or against an application. The third speaker slot is reserved for the applicant or their representative irrespective of whether the application is recommended for approval or refusal. The applicant's representation will be taken as the last speaker on an item.

7.8 Where there have been requests to speak both in favour and against an application one speaker slot will be reserved for supporters and one for objectors. Where there is more than one speaker registered either in favour or against an application, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.

7.87.9 Where there are speakers registered only in favour or against an application and there have been ~~Where~~ more than two requests to speak ~~have been received~~, the public shall decide amongst themselves who is to address the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak.

7.97.10 When registering to speak, members of the public will be asked by the Council if they consent to having their details passed on to other supporters or objectors, thus enabling them to put forward views of others who have an interest in and wish to make representations on the application or item. If a member of the public is representing the views of others, they must inform the Committee who else they are representing when making their presentation.

7.107.11 At the meeting, each speaker will have a time period of up to 3 minutes to address the Committee. Committee members will then have the opportunity to question the speaker.

7.117.12 Members of the public making comments to Committees are able to send a substitute if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of the substitution prior to the meeting commencing. It is not permissible for a substitution to be made

which enables a member of the public to make two representations in respect of a single household.

- | 7.127.13 Where an application or item being considered by a Committee is referred to its parent committee for consideration, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the parent committee. Speaking rights are also automatically transferred in the event where an application has been deferred to a future meeting of an Area Planning Committee or the Planning Committee.
- | 7.137.14 Members may only address Area Planning Committees on applications which affect their ward or on an application which that Member has 'called-in'. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes. Ward Members rights to address the Area Planning Committee are in addition to the rights of public speakers.
- | 7.147.15 One Ward Member who is not a member of the Planning Committee will have the right to address that Committee when it considers any planning application relating to the ward in question. Where the ward is represented by Members from more than one party group one Member from each party group may address the Committee. When a Ward Member wishes to address a Committee they should give notice to the Chairman of the meeting before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes. Ward Members rights to address the Planning Committee are in addition to the rights of public speakers.
- | 7.157.16 MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a Planning Committee or Area Planning Committee meeting on a matter which affects their constituency or ward. Any such Member should give notice to the Chairman of the meeting before the start of the meeting. Any such Member would be allowed up to 3 minutes
- | 7.167.17 Where an Area Planning Committee has referred an item up to a relevant committee, the Chairman of the Committee will have a right to attend and speak at the meeting of the Committee where the referral is being considered

Article 9 – Chief Officers

9.01 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts, who will be designated chief officers:

~~Chief Executive (Head of Paid Service)
Chief Operating Officer (Section 151 Officer)
Commissioning Director, Children and Young People
Commissioning Director, Growth and Development
Commissioning Director, Adults and Health
Commissioning Director, Environment
Assurance Director (Monitoring Officer)~~

~~Public Health Commissioner (Director of Public Health)~~

Chief Executive (Head of Paid Service)
Deputy Chief Executive
Assistant Chief Executive
Strategic Director of Children and Young People (Director of Children’s Services)
Strategic Director of Adults, Communities and Health (Director for Adult Social Services)
Strategic Director of Environment

Director of Resources (Section 151 Officer)
Director of Public Health
Monitoring Officer

The ~~Assurance Director~~Monitoring Officer will have reserve powers to exercise all or any of the powers delegated to the Head of Legal or the Head of Governance under the Constitution.

(c) Statutory Officers

The Council will designate the following posts as shown:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Monitoring Officer Assurance Director	Monitoring Officer
Chief Operating Officer	Chief Finance Officer / Section 151 Officer
Commissioning Strategic Director, of Children and	Director of Children’s Services

Young People	
Strategic Commissioning Director, of Adults, Communities and Health	Director for Adult Social Services
Director of Resources	Deputy Chief Finance Officer / Deputy Section 151 Officer
Director of Public Health Public Health Commissioner	Director of Public Health

~~(d) Other Chief Officers~~

Post
Commissioning Director, Growth and Development
Commissioning Director, Environment

Such posts will have the functions described in Article 9.02-9.07 below.

9.02 Functions of Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restriction of functions.** The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.
References:
Section 4 and 5, Local Government and Housing Act 1989
- (c) The Head of Paid Service has authority over all other chief officers so far as is necessary for efficient management and for carrying out the Council's functions.

9.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Operating Officer, the Monitoring Officer will report to the full council if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Constitution, Ethics and Probity Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution, Ethics and Probity Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Member Code of Conduct. Then s/he or they will make reports and recommendations in respect of such allegations to the Group Leaders Panel.
- (g) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the council, in particular through the provision of legal advice and advice on probity and good administration.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (j) **Register of Members Interests.** The Monitoring Officer will keep and maintain the Register of Members Interests and ensure its availability to the public.

References:

(Section 5), Local Government and Housing Act 1989

Sections 60, 64-66, Local Government Act 2000

Chapters 8 and 9, DETR Guidance

Part 10, sections 183 to 203 of the Local Government and Public Involvement in Health Act 2007

Section 29(1), Localism Act 2011

9.04 Functions of the Chief Finance Officer / Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- (b) **Estimates and resources.** In accordance with the Local Government Act 2003 to advise on robustness of estimates and level of resources.
- (c) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.
- (d) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.

- (e) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (f) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

9.05 Functions of the Director of Children's Services

- (a) The Council as a children's services authority is required by the Children Act 2004 to appoint an officer to be known as the Director of Children's Services. The ~~Commissioning Strategic~~ Director, of Children and Young People will fulfil the role of the Director of Children's Services.
- (b) The Director of Children's Services is responsible for the delivery of the Council's education and social services functions for children, and any health functions for children delegated to the Council by an NHS body.

9.06 Functions of the Director of Adult Social Services

- (a) The ~~Commissioning Strategic~~ Director, of Adults, Communities and Health will fulfil the role of the Director for Adult Social Services as required by the Local Authority Health Social Services Act 1970, as amended by the Children Act 2004.
- (b) The ~~Commissioning Strategic~~ Director, Adults, Communities and Health is responsible for the delivery of the Council's social services functions, other than those for which the Council's Director of Children's Services is responsible under the Children Act 2004.

9.07 Functions of the Director of Public Health (DPH)

- (a) The DPH is responsible for writing the Annual Report on the health of the local population.
- (b) The DPH is responsible for all of the local authority's duties to take steps to improve public health.
- (c) The DPH is responsible for exercising the local authority's functions in planning for, and responding to, emergencies that present a risk to public health.
- (d) The DPH is responsible for exercising the local authority's role in co-operating with the Police, the Probation Service and the Prison Service to assess the risks posed by violent or sexual offenders.
- (e) The DPH is responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.
- (f) The DPH is responsible for exercising the local authority's duties to ensure plans are in place to protect their population including through screening and immunisation.

9.08 Other Chief Officers

The other Chief Officers as referred to in 9.01 (d) will discharge the statutory functions detailed in Responsibility for Functions, Annex B (Scheme of Delegated Authority to Officers).

9.09 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

9.10 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/Officer Relations set out in this Constitution.

9.11 Employment

The recruitment, selection and dismissal of officers will comply with the Human Resources (HR) Regulations as set out in this Constitution.

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ANNEX B TO RESPONSIBILITY FOR FUNCTIONS SCHEME OF DELEGATED AUTHORITY TO OFFICERS

i. POWERS DELEGATED TO OFFICERS

General Powers

1.1 Chief Officers as listed in Article 9 can take decisions:

- to discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to, 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. This covers emergency decisions that were not anticipated within the budget or Service Plans but nevertheless relate to everyday business, not major changes / decisions outside the approved budget and statutory plans listed as being for decision by Council. For example school heating system fails during mid-winter, or a school roof collapses today. These decisions must be taken in consultation with the Chairman of Policy and Resources Committee.

1.2 All officers to whom powers are delegated under the Constitution will authorise another officer or officers to exercise those powers during periods for which they have given formal notification that they will be absent or unable to be contacted, or when they cannot be contacted due to illness or other indisposition, or in cases of utmost urgency where they cannot be contacted by any means.

1.3 Chief Officers may use whatever means they consider appropriate to discharge those functions within their scheme of delegation, 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.

- 1.4 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. These powers must be set out in the Chief Officers Scheme of Delegation.
- 1.5 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 views of the Chairman of the relevant Committee should be sought as to whether or not it is appropriate to use the delegation. All delegated powers reports must indicate that this process has been undertaken.

Recording of delegated powers to Officers

- 1.6 Formal reporting of officer decisions will take place if actions or decisions involve the following –
- Specific statutory powers
 - The service of formal notice
 - Awarding a contract or incurring expenditure which, in either case, materially affects the Council's financial position
 - The fixing of fees and charges which are broadly in line with or lower than inflation to be levied by the Council
 - Authorisations and acceptances in accordance with the Contract Procedure Rules
 - Land or property transactions
 - The exercise of specific powers pertaining to finance, borrowing and investments
 - The issue or defence of legal proceedings
 - Granting a permission or licence
 - Affect the rights of an individual (i.e. to change an individual's legal rights)
 - Or taking other actions or decisions that are significant in the context of service delivery and/or organisation or upon individuals, external bodies or the public
- 1.7 Recording/publishing of most decisions will be in summary form and will set out the principal matters that are relevant to the decision. Detailed reporting/publishing of individual decisions (Delegated Powers Report) will be by way of exception and only when there is a clear need to do so.
- 1.8 Where formal reporting is not required, the officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate.

Each Directorate will keep its own central record of all delegated decisions. Proper administrative decision making requires that: -

- Decisions are properly made
- Appropriate reasons are given to those affected
- Decisions are fully recorded

1.9 All Directors and Chief Officers will draw up an up-to-date list of specific powers delegated which must be in accordance with the overall scheme of delegation, is updated annually and is published on the internet.

Specific Powers

1.10 In addition, in consultation with the Chairman of Policy and Resources Committee:

Directors have the power (subject to Chief Financial Officer approval as set out in Financial Regulations) to agree revenue virements for sums in excess of £50,000 and up to £250,000 between service directorates and employee and non-employee expenditure.

Details of the Scheme of Revenue and Capital Virements can be found in Financial Regulations.

Where people processes are in accordance with the Council's Terms and Conditions of employment and any cost can be contained within the Group or Delivery Unit budget then this is a matter for the relevant Director.

Where the staffing or managerial issues will incur costs which cannot be contained within the Group or Delivery Unit's annual budget but can be contained within the Council's Annual budget then this must be reported through delegated powers of Head of Paid Service.

The only exception to these Specific Powers is where:

- a. Where 20 or more employees are placed at risk of redundancy/TUPE transferred,
- b. Terms and conditions of employment are to be introduced (this excludes compliance with statutory requirements) or replaced (this means a new term or condition)
- c. The Severance package per individual is £100,000 or more, in which case the matter must be referred to Remuneration Committee
- d. The Salary package to be offered is £100,000 or more, in which case the matter must be referred to the Remuneration Committee

In these cases the matter must be referred to General Functions Committee or Remuneration Committee as appropriate for decision.

1.11 The following Officers also have the powers indicated:

- The ~~Commissioning Director, Growth and Development~~Deputy Chief Executive to make decisions about:
 - (i) The acquisition of properties under the private sector leasing scheme, for £20,800 per annum or less or as a one off consideration; and
 - (ii) The ~~Commissioning Director, Growth and Development~~Deputy Chief Executive shall have authority to sign the private sector leases as detailed at (i) above
 - All disposals of freehold interests and leases where a capital premium is obtained for the interest will be agreed by Assets, Regeneration and Growth Committee.

Restrictions and Conditions

1.12 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 decisions that are reserved to Council under this Constitution in an emergency and if it is lawful for them to do so.

1.13 Decisions taken by officers must be recorded and made available to members of the Council either as individual decisions or via lists of summary decisions taken under delegated powers published on the Internet.

1.14 Chief Officers may authorise other officers to exercise these powers in practice, but they are taken in their name and they remain their responsibility.

1.15 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.

2 OFFICER DELEGATIONS

This scheme sets out those delegations made to the Chief Executive and Chief Officers (as listed in Article 9) whether by the Council (refers to the 63 Councillors meeting as a body) or derived from statute. The Scheme also sets out the powers of the Statutory Officers of the Council.

Chief Officers are authorised to exercise those powers and duties of the Council in relation to the service and activities for which they are responsible which are not reserved to Council, a Committee or Sub-Committee, or to another officer.

They are accountable to the elected Members of the Council for the efficient and economic discharge of these responsibilities. They are, in turn, accountable to the public and are responsible for all matters which impact upon the Council exercising its powers and duties.

Except as specifically provided in this Scheme of Delegations or in Statute, the exercise of any power or duty of the authority is only delegated where the exercise would be (a) in accordance with any approved plan, policy or strategy, (b) not raising new issues of policy or precedent, and (c) not of such sensitivity or significance that it is appropriate for the matter to be referred to members for decision.

3. DELEGATION OF POWERS

3.1 In exercising delegated powers officers must:

- a. Comply with any strategy, policy, plan or direction directed by Members of the Council;
 - i. Comply with the Council's Financial Regulations, Contract Procedure Rules and Human Resources Regulations in force at the time;
- b. Only incur expenditure within approved limits/estimates;
- c. Refer to the appropriate body of members for consultation or decision on all matters of public controversy or undecided matters of policy or substantial change from previous practice or which involve difficult or major changes where custom and practice or initial consultation with elected Members should have taken place;
- d. Ensure compliance with the law and all policies, regulations, orders, codes, protocols and similar documents approved by the Council or one of its Committees;
- e. Inform members with specific functional responsibilities and Ward members about the exercise of powers;
- f. Consult with other relevant officers with proper regard to any advice given;

- g. Authorise another officer or officers to exercise those powers when they are absent or cannot be notified;
 - h. Keep appropriate records and registers of decisions and report to Council, or Committee if required;
 - i. Be accountable to the Council and Members or Committee, from which those powers derive;
 - j. Be subject to decisions by the Chief Executive or the Monitoring Officer on whether officers should exercise any delegated power;
 - k. Operate under the terms of officers holding politically restricted posts.
- 3.2 Where appropriate the Chief Executive may exercise any function delegated to any other officer, unless prohibited by law.
- 3.3 Chief Officers may exercise any function delegated to any other officer within their Scheme of Delegation, unless prohibited by law.
- 3.4 In the event of any dispute as to the delegated powers of any senior officer the Chief Executive shall have the power to determine which officer is to exercise the power.
- 3.5. Where a function is delegated to a Chief Officer or Director, he/she may sub-delegate the function to another senior officer where any function is sub-delegated in this way, the Chief Officer retains the power to recall any matter for decision, unless prohibited by law.
- 3.6 Officers exercising delegated powers may make decisions that were not anticipated within the budget or Service Plan but nevertheless relate to everyday business.
- 3.7 Responsibility for monitoring that specific Council strategies and plans are focused on the commissioning and delivery of services to achieve the best outcomes for the people of Barnet and the delivery of outstanding customer service across all services.
- 3.8 The use of Delegated Power Reports (DPR) will be by exception and only when there is a clear need to do so.
- 3.9 There are limitations upon all delegated powers. In particular there is no delegation of power to officers of:
- a. Matters reserved specifically to Members by resolution of Council;
 - b. Approval to exceed the provision in the revenue or capital budgets for their service responsibilities;
 - c. Decisions on permanent savings in the budget to achieve the Council's policies;
 - d. The right to determine a major employee re-organisation;

- e. A matter where the officer is of the opinion that the matter is of such significance or sensitivity that it should be referred to members for decision.

DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE AND EACH CHIEF OFFICER

Any power delegated to the Chief Executive (Head of Paid Service) may also be exercised by any member of staff who has been so authorised by the Chief Executive to whom that power is delegated, or in their absence or non-availability, by the nominated officer having responsibility of the said function, subject to any requirement, condition, restriction or limitation specified by the Chief Executive.

The Chief Executive, ~~Chief Operating Officer and Strategic Director for Commissioning~~ Deputy Chief Executive, Assistant Chief Executive, Strategic Director of Children and Young People, Strategic Director of Adults, Communities and Health, Strategic Director of Environment and Director of Resources comprise the Strategic Commissioning Board (SCB) which is tasked to deliver the Council's themes, as agreed by Members.

The Chief Executive and Chief Officers have the following general powers:

- a. To manage and promote the services and functions for which they are responsible.
- b. Taking and implementing any decision required for operational effectiveness.
- c. To discharge of the powers conferred on Chief Officers by Standing Orders, Financial Regulations, Human Resources Policies and Contract Procurement Rules.
- d. Authorisation and acceptance of quotations for contracts to the limits placed on Chief Officers by Contract Procedure Rules.
- e. Expenditure within approved revenue budget estimates.
- f. Virement of resources for sums in excess of £50,000 between service directorates and employee and non-employee expenditure
- g. Agreement of settlements of up to £1,000 subject to the approved budget.
- h. Bidding for external resources for services within their remit.
- i. Writing off of debts and disposal of assets as prescribed in Council Financial Regulations.
- j. Liaison with and development of partnerships with external agencies, government departments and stakeholder organisations.

- k. The setting, variation and recovery of costs, fees and charges for goods funded by the Council.
- l. Exercise of discretionary powers in relation to all staffing matters detailed within the Council's Human Resources Policies including the appointment, promotion and dismissal of permanent and temporary staff, the remuneration and rewarding of staff within approved budgets and the authorisation of staff absence, leave, payments including overtime, expenses and ex gratia payments.
- m. Giving officers authority to enter premises where powers of entry are conferred for the purposes of fulfilling a function for which the Chief Officer is responsible.

DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE

The Chief Executive has lead responsibility to implement the Council's policies, ensuring that it delivers to its objectives and duties, within budget, and according to strategic priorities and statutory requirements.

Responsibility for functions including:

To be the Head of the Paid Service	The Local Government and Housing Act (1989)
Authority over all officers so far as it is necessary for the efficient management and execution of the Council's affairs, functions or services - except where officers are exercising specific responsibilities under statute as set out in Article 9 as Statutory Officers.	Council
Co-ordination, direction and monitoring of the Council's initiatives to achieve efficiency and best value in the delivery of its functions.	Council
Taking any action necessary to ensure the effective and efficient management and operations of the Council.	Council
Reporting to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.	Section 4, Local Government Act and Housing Act (1989)
Taking any action necessary to ensure the effective development and delivery of the Council's key strategies and services.	Council
To make any decision delegated to another officer.	Council
The appointment, promotion and dismissal of staff including the forming, varying and ending of contracts of employment for Officers below Chief Officer as set out in the Council's Human Resources Regulations.	Section 4-12 of the Local Government and Housing Act and Section 112 of the Local Government Act 1972
Appointment of officers to deliver the statutory functions of the Council and authorise them to do so under relevant legislation.	Council
Exercise the powers of the Council in relation to general power of competence	Section 1 Localism Act 2011
Discharge of the functions of the Electoral Registration Officer and, where required, the Returning Officer	Council

Appointment and proper management of the authority's staff subject to the DCLG guidance on appointment of staff with remuneration packages of £100,000 by the General Functions Committee.	Council
Ensure the facilitation of the Barnet Partnership Board and that it meets Government requirements.	Council
Preparation of the Barnet Corporate Plan and other key corporate policies as appropriate, for agreement by Policy and Resources Committee	Council
Responsibility for the overall co-ordination and performance management of the Council's operations, including arrangements for managing major projects.	Council
Responsibility for Council communications.	Council
Responsibility for the Council's risk and reputation management by ensuring it operates in an open, accountable and democratic manner.	Council

DELEGATED AUTHORITY TO THE ~~CHIEF OPERATING OFFICER~~DIRECTOR OF RESOURCES

The ~~Chief Operating Officer~~Director of Resources has the powers set out in the Financial Regulations.

Responsibility for functions including:

To be the Council's statutory Chief Finance Officer and S151 Officer	Section 151, Local Government Act 1972)
Ensuring that the Council operates within required financial policies and procedures to ensure the efficient and appropriate use of public money.	Section 151, Local Government Act 1972)
The proper administration of the financial affairs of the Council which responsibilities shall include all arrangements covering financial planning, financial control, banking, accounts, income, insurances, investments, binds, loans, leasing, borrowing (including methods of borrowing), trust and pension funds, the payment of creditors and the payment of salaries, wages, pension scheme benefits and gratuities.	Section 115 (2), Local Government Act 1972
Make any statutory declaration in connection with the transfer of securities.	Section 146, Local Government Act 1972
Responsibility for the provisions of the Accounts and Audit Regulations in respect of the need to maintain an adequate and effective system of internal audit of the Council's accounting records and of its system of internal control in accordance with proper internal audit practices.	Accounts and Audit Regulations 2003
Exercising the functions of the Council relating to procurement.	Council
To agree to revenue or capital expenditure not provided for within the control budget being incurred if the Chief Operating Officer is satisfied that it is wholly reimbursable to the Council, or compensatory savings have been identified with expenditure consistent with performance management plans.	Council
To take the most appropriate form of borrowing from the approved sources and to make the most appropriate form of investments in approved instruments.	Council
To write off debt amounts up to and including £5,000 in consultation with HB Public Law.	Council
Authority to write off overpayments of salary allowances	Section 30, Local

<p>or pensions which occur as a result of the death of an employee or pensioner.</p>	<p>Government (Miscellaneous Provisions) Act 1976</p>
<p>In relation to the Pension Fund:</p> <ul style="list-style-type: none"> • To implement the decisions of the Pension Fund Committee (PFC) efficiently and effectively. • To administer the Pension Fund within the parameters set by the PFC, delegating these responsibilities as appropriate to other council officers and/or external contractors. • To advise the PFC on all matters pertaining to the management of the Pension Fund, drawing upon the knowledge and expertise of other council officers, the independent advisor, the actuaries and other sources where appropriate. • To attend PFC meetings, ensuring an appropriate substitute is sent where attendance is not possible. • To require other relevant individuals to attend PFC meetings where appropriate. • To require the Fund's independent advisor to present a report each quarter to the PFC on the key and emerging issues that will or could affect the Pension Fund's future performance and standing • To organise adequate training to enable members of the PFC to be in a position meet their fiduciary responsibilities in relation to the Pension Fund. • To request that the Chairman convene additional meetings where a matter arises that requires its urgent consideration. • To prepare and submit the following Pension Fund documents for approval to the PFC on either triennially or more frequently than this should circumstances require:- <ul style="list-style-type: none"> ○ Pension Fund Annual Report ○ Statement of Investment Principles ○ Funding Strategy Statement ○ Governance Policy Statement ○ Pension Administration Strategy ○ Communication Policy Statement • To publish the documents detailed above, upon their approval by the PFC, in a timely, accessible and cost-effective manner. • To make available to scheme representatives, scheme members and any other interested bodies, 	<p>Council</p>

upon request, any other information pertaining to the London Borough of Barnet Pension Fund where this is not covered by exemptions provided by Acts of Parliament.	
With HB Public Law to make decisions about operational and works licences, easements, rent reviews and licences to assign, lease renewals, new leases, and acquisitions of land, whether freehold or leasehold, in accordance with legislation relating to Best Consideration and with the Asset, Land and Property Rules, specifically the thresholds set out in Annexes A and B	Local Government Act 1972
To respond to statutory notifications by Foundation Schools on proposals to dispose of surplus land.	
Responsibility to report if a Council decision will, or is likely to incur, unlawful expenditure or where expenditure exceeds or is likely to exceed the resources available or would cause a loss or deficiency to the Council or entry of an unlawful item of account.	Section 114 and 114a, Local Government Finance Act (1988)
Report on the robustness of the authority's budget calculations and the adequacy of the Council's proposed financial reserves.	Section 25, Local Government 2003
Authority to provide financial information to the media, members of the public and the community.	Council
The delivery of all assurance functions for the Council including the functions of the Corporate Anti-Fraud Team and Internal Audit.	Council
<u>Approving the issue of grants to the voluntary sector and individuals for amounts £5,000 and below.</u>	<u>Council</u>

**~~DELEGATED AUTHORITY TO THE DIRECTOR OF RESOURCES
(DEPUTY SECTION 151 OFFICER)~~**

DELEGATED AUTHORITY TO THE MONITORING OFFICER

Responsibility for functions including:

To be the Council's statutory Monitoring Officer with responsibility for ensuring that the Council meets its legal and statutory obligations in relation to issuing appropriate guidance to member and officers in the undertaking of their roles.	Section 5 and 5a, Local Government and Housing Act (1989)
All democratic processes for the Council.	Council
Ensuring that the Council meets the highest standards of governance, risk management and probity and that sound governance principles are embedded across the organisation and its partners.	Council
Reporting on the contravention or likely contravention of an enactment or rule of law and any maladministration or injustice where an Ombudsman has carried out an investigation.	Section 5 and 5a, Local Government and Housing Act (1989)
Maintenance of the Register of Members' Interests, Gifts and Hospitality	Sections 29 and 30, Localism Act (2011), The Relevant Authorities (disclosable pecuniary interests) Regulations (2012)
Advice to Members on the Members Code of Conduct	Members Code of Conduct
Key role in the framework for local determination of complaints	Sections 28-34, Localism Act (2011)
Advice to Members on Compensation or remedy for maladministration	Section 92, Local Government Act (2000)
The provision of advice on the scope of powers and authorities to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.	Council
Holding of any reserve powers to exercise all or any of the powers delegated to the Head of Legal or the Head of Governance under the Constitution subject to the Inter Authority Agreement between the London Boroughs of Barnet and Harrow	
The maintenance of the Constitution and its availability to	Council

members, officers and the public. Authority to amend the Constitution to give effect to decisions of Council and changes of fact and law.	
Power to conduct or appoint officers or others to conduct investigations into allegations of breach of the Code of Conduct.	Council
Authority to stop a proposal or decision being implemented if it is considered that any proposal, decision or omission would give rise to unlawfulness or maladministration.	Council
To authorise payments of up to £5,000 in settlement of maladministration before any finding by the Ombudsman, in accordance with Section 92 of the Local Government Act 2000.	Council
Considering requests for and where appropriate granting dispensations under section 33 of the Localism Act 2011, with any dispensation granted being reported to the Committee where the dispensation is being granted.	Council

LEGAL SERVICES

The Council operates a joint legal service with Harrow Council. It has resolved to delegate the exercise of its legal functions to the London Borough of Harrow under Section 101 of the Local Government Act 1972 and of the Local Government (Arrangement for the Discharge of Functions) (England) Regulations 2000. Its functions and delegated powers include:

Responsibility for functions including:

Acting as Solicitor to the Council and to institute, conduct and, where appropriate, defend and settle criminal and civil legal proceedings and claims concerning the Council's responsibilities and interests except in relation to those covered by the Council's insurance policies.	
Taking any action in order to protect the interests of the Council or of any person or property to whom, or for which, the Council has responsibility or in order to give legal effect to any decision or action properly taken by the Council or a Committee or person on behalf of the Council.	
Lodging appeals against any adverse finding against the Council in any tribunal or court.	
Signing any documentation to give effect to any resolution of the Council in any tribunal or court.	
Signing any document necessary to give effect to any resolution of the Council, or any Committee or Sub-Committee.	

HEAD OF GOVERNANCE

Responsibility for functions including:

All Head of Governance functions in the constitution	Council
Members declarations of acceptance of office	Council
Members notice of resignation	Council
Giving notice of casual vacancies	Council
Convening Council to fill Mayoral casual vacancy	Council
Signing summonses for council meeting and receiving notices as to Members addresses for summonses	Council
Receiving notification of political groups for the calculation of political balance	Council Local Government and Housing Act 1989
Deposit of documents	Council
Certification and authentication of documents, byelaws and copy minutes and signing of other relevant formal notices and documents.	Council
Returning Officer for election of statutory parent governor representatives to serve as co-opted Members of the Children, Education, Libraries & Safeguarding Committee	Council
Facilitating the appointment of representatives to the Local Pension Board in accordance with statutory requirements	Council

**DELEGATED AUTHORITY FOR THE COMMISSIONING STRATEGIC
DIRECTOR, OF CHILDREN & YOUNG PEOPLE (DIRECTOR OF
CHILDREN'S SERVICES (DCS))**

Responsibility for functions including:

Those duties conferred on or exercisable in its capacity as a local education authority.	Section 18 (3), Children Act 2004
Powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in child protection and care cases	Section 18 (3), Children Act 2004
Exercise all functions, powers and duties of a Children's Services Authority under all relevant legislation, but not limited to, Education, Social Services and Health functions.	Local Authorities Social Services Act 1970 and Section 75, National Health Service Act 2006
Functions relating to looked after children	Section 18 (23c - 24d) Children's Act 1989 and Section 18, Children Act 2004
Duty to make and sustain arrangements to promote co-operation between the Council and its partner organisations to improve the well-being of the children within the authority	Section 10 Children Act 2004
Duty to make arrangements to ensure the Council's functions are discharged having regard to the need to safeguarding and promote the welfare of children	Sections 11 and 18, Children Act 2004
Duty to establish a Local Safeguarding Children Board (LSCB) to co-ordinate and ensure the effectiveness of board members' activities for the purpose of safeguarding and promoting the welfare of children in the Council's area.	Sections 13, 14, 15, 16, Children Act 2004
Establish and maintain information databases in relation to the well-being and safeguarding of children.	Section 12 and 18, Children Act 2004
Preparation and publication of a Children's and Young People Plan	Sections 17 and 18, Children Act 2004
Duty to promote the educational achievement of looked after children.	Children's Act 1989 (as amended)
Duty to provide the Secretary of State , if so directed, with	Children's Act

information on individual children	1989 (as amended)
Any function under section 75 of the National Health Act 2006 on behalf of an NHS body as far as those results relate to children.	Section 18, Children Act 2004
Responsibility for any additional functions as the authority consider appropriate	Section 18, Children Act 2004
Having regard to Section 3 (Delegation of Powers) authority for commissioning services and making any decision for the operational effectiveness of early years, schools, family support, youth services, libraries, children's safeguarding and children's social care	Council

**DELEGATED AUTHORITY FOR THE ~~COMMISSIONING STRATEGIC~~
DIRECTOR FOR ADULTS OF COMMUNITIES & HEALTH (DIRECTOR OF
ADULT SOCIAL SERVICES)**

Responsibility for functions including:

Exercise the functions of the Council with regard to the delivery of those functions in respect of adults (other than those for which the Director of Children's Services is responsible)	Section (1a) and Schedule 1 of the Local Authority Services Act 1970
Exercise of all functions, powers and duties of an Adult Services Authority including, but not limited to Social Services, safeguarding of adults, Deprivation of Liberty, Mental Health services and Health functions	
Arrangement for the effective operation of the Council's responsibilities for the assessment, purchase and provision of social care services for adults including people disabilities, older people, people with mental health needs, people with substance misuse problems and adults with learning disabilities.	Council
Assessment of the need for, and where necessary provide, services and/or residential accommodation for those suffering from a disability, including a mental disability.	Pursuant (but not limited to) the National Assistance Act 1948, the Mental Health Act, the Chronically Sick and Disabled Persons Act, the Disabled Persons (Services, Consultation and Representation) Act, the National Health and Community Care Act, the Health and Social Care Act and the Mental Capacity Act.
Assessment and planning to meet the needs of carers of vulnerable people.	The Carers and Disabled Children Act 2000.
Acting as the 'appropriate adult' in relation to persons with a mental disorder (which may include a disability) who are detained at a police station.	The Police and Criminal Evidence Act
Leadership of the continuous improvement of high quality care and support services to adults including the development of commissioned and care and support services and the delivery of assessment/care	Council

management services (including ensuring resource allocations to eligible individuals to but care and support).	
Having regard to Section 3 (Delegation of Powers) authority for commissioning services and making any decision for the operational effectiveness of health & well-being partnerships, adult social care, adults safeguarding, sports & physical activity and leisure services	Council

DELEGATED AUTHORITY FOR THE ~~COMMISSIONING DIRECTOR FOR GROWTH AND DEVELOPMENT~~ DEPUTY CHIEF EXECUTIVE

Having regard to Section 3 (Delegation of Powers) authority for commissioning services and making any decision for the operational effectiveness of planning and development management, regeneration, housing enterprise, skills, employment, building control, land charges and strategic planning	Council
Authority, in consultation with the Chairman of the Performance and Contract Management Committee, to fulfil the Council's obligations with respect to meeting contractual requirements, which have to be made in a timely way, in the Joint Venture Agreement. These decisions would be reported retrospectively to the Performance and Contract Management Committee	Council

DELEGATED AUTHORITY FOR THE COMMISSIONING DIRECTOR ~~FOR~~ OF ENVIRONMENT

Having regard to Section 3 (Delegation of Powers) authority for commissioning services and making any decision for the operational effectiveness of waste management, street cleansing, community safety, cemeteries and crematorium, trading standards and licensing, environmental health, parks and open spaces, highways and regulatory services	Council
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PUBLIC HEALTH COMMISSIONER (DIRECTOR OF PUBLIC HEALTH (DPH))

The Council operates a joint Specialist Public Health Service with Harrow Council. It has resolved that the statutory responsibilities for local health

protection, health improvement and reducing health inequalities should be hosted by Harrow Council.

Responsibility for functions including:

Write and publish the Annual Report on the health of the local population	Section 73B (5) & (6) of The NHS Act 2006, inserted by section 31 of the 2012 Act). (Directors of Public Health in Local Government: i. Roles, responsibilities and context (Oct. 2012, p.9., para. 3.2.)
All of the local authority's duties to take steps to improve public health	Section 73A (1) of the 2006 Act, inserted by section 30 of the 2012 Act, Directors of Public Health in Local Government: i. Roles, responsibilities and context Oct. 2012, p.9., para. 3.3
Exercising their local authority's functions in planning for, and responding to, emergencies that present a risk to public health	Section 73A (1) of the 2006 Act, inserted by section 30 of the 2012 Act.
Responsibility for the local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders	Section 73A (1) of the 2006 Act, inserted by section 30 of the 2012 Act.
Responsibility for the local authority's public health response as a responsible authority in areas such as making representations about licensing applications	The Licensing Act 2003 and regulations made under section 73A (1) of the 2006 Act, inserted by section 30 of the Health and Social Care Act 2012. Sections 5 (3), 13 (4), 69 (4) and 172B (4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act.
Duty to ensure plans are in place to protect the population including through screening and immunisation. Provide independent scrutiny and	National screening and immunisation programmes. Letter from

challenge of the plans of the NHS Commissioning Board (CB), Public Health and Environment (PHE) and providers. PHE will support the Director in the duty to hold the NHS CB to account through the provision of data and information on performance against standards. The Director will need to be satisfied that the combined plans of all these organisations will deliver effective screening and immunisation programmes to their local populations.”

the Department of Health, 23/08/2012, p5.

Definitions

For the purposes of this scheme the following will be used through-out the document and therefore the common definitions are attached:

“Authority” – refers to the legal entity of Barnet Council

“Council” – refers to 63 Councillors meeting as a body

“Delegated Powers Report (DPR)” – a delegated powers report is a summary of the decision that has been made and the powers being used by the Officer.

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Contract Procedure Rules

CONTENTS

1	INTRODUCTION	3
2	APPLICATION	3
3	SCOPE	4
4	REGULATION & LEGISLATION.....	4
5	ROLES AND RESPONSIBILITIES.....	5
6	CONTRACT VALUE CALCULATION	6
7	AUTHORISATION	7
8	PROCUREMENT METHOD	7
9	SINGLE TENDER ACTION.....	8
10	CONCESSION CONTRACT.....	9
11	INFORMATION GOVERNANCE.....	10
12	ACCEPTANCE	11
13	CONTRACT SIGNING and SEALING	11
14	CONTRACT MANAGEMENT	12
15	EXTENSIONS and VARIATIONS	12
16	WAIVERS.....	14
17	DEFINITIONS AND INTERPRETATION.....	15
18	APPENDIX 1 - TABLE A – Authorisation and Acceptance Thresholds.....	18

1 INTRODUCTION

- 1.1 Procurement decisions are among the most important decisions a manager makes because the money involved is public money and the Council is concerned to ensure that as a minimum high quality supplies, works and services are provided in a timely manner. Effective and efficient use of resources in order to achieve best value is a legal duty. The Council's reputation is also important and should be safe guarded from any suggestion of dishonesty, corruption or failure to meet legal responsibilities.
- 1.2 Any Procurement activity must comply with the Law, these Contract Procedure Rules, Council policy, and the Constitution. It is a disciplinary offence to fail to comply with Contract Procedure Rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager for action and the Chief Internal Auditor for noting.
- 1.3 All Procurement must be undertaken with regard to high standards of probity. The Council has a commitment to transparency and it is important that the Procurement process is as transparent and open as possible.
- 1.4 These Contract Procedure Rules are to be read in conjunction with the Public Contracts Regulations 2015, The Concession Contracts Regulations 2016, Cabinet Office Procurement Policy Notes and the Council's Officer Code of Conduct.

2 APPLICATION

- 2.1 The Contract Procedure Rules provide the governance structure within which the Council may procure works, supplies and services. The aims of these rules are to:
 - ensure value for money and propriety in the spending of public money;
 - enable works, supplies and services to be delivered effectively and efficiently without compromising the Council's ability to influence strategic decisions;
 - ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant Procurement activity; and
 - ensure compliance with current Law
- 2.2 These Contract Procedure Rules apply to all persons who commission and or procure contracts on behalf of the Council, including external consultants or third party service providers.
- 2.3 The Policy and Resources Committee may, from time to time, recommend to the Constitution, Ethics and Probity Committee and Council that the financial thresholds set out in these Contract Procedure Rules be amended.
- 2.4 Refer to any approved Scheme of Delegation to identify any manager with the right to undertake Procurement as delegated by [the Deputy Chief Executive, Assistant Chief](#)

Executive, their Commissioning Strategic Director, Director, Assistant Director, or Head of Service. Schemes of Delegation will be maintained by the Deputy Chief Executive, Assistant Chief Executive or relevant Commissioning Strategic Director. All officers must undertake Procurement in a manner which avoids any potential conflicts of interest and must follow the procedure set out in the Officer Code of Conduct.

- 2.5 The ~~Commercial and Customer Services~~ Director of Commercial Services in consultation with the ~~Chief Operating Officer~~ Director of Resources shall maintain and issue the Contract Procedure Rules.
- 2.6 Unless the context otherwise requires, terms used in these Contract Procedure Rules shall have the meanings ascribed to them in section 16 (Definitions and Interpretation).

3 SCOPE

- 3.1 The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding, such as grant allocation, received by the Council from external sources.
- 3.2 The Contract Procedure Rules do not apply to Non-Procurement activities as defined in Section 16.17 (Definitions) of these Contract Procedure Rules. Payments to third parties for Non Procurement activities shall be subject to authorisation by Finance.
- 3.3 Where the Council is entering into a Contract as an agent in collaboration with another public body or organisation which is the principal or lead body in the collaboration, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the principal or lead body concerned. Where the Council is acting as principal or the lead body, these Contract Procedure Rules will take precedence.
- 3.4 Where the Council's schools have to abide by the Scheme for Financing Schools which requires them to follow Contract Standing Orders (CSO) for Schools, then the CSO for Schools shall take precedence over these Contract Procedure Rules.
- 3.5 Any interest in land, transaction in land and or lease transaction is excluded from the Contract Procedure Rules but must be authorised in accordance with the requirements set out in the Constitution and, specifically, the Management of Asset, Property and Land Rules.
- 3.6 Section 75 NHS Act 2006 arrangements are not subject to these Contract Procedure Rules

4 REGULATION & LEGISLATION

- 4.1 Customer Support Group (CSG) Procurement is responsible for ensuring Council awareness and compliance with the requirements of all relevant Law. Any significant changes to existing or new Law will be reflected in these Contract Procedure Rules.

- 4.2 The Contract Procedure Rules will be regularly reviewed and updated by CSG Procurement with any significant changes referred to the Constitution, Ethics and Probity Committee in accordance with paragraph 2.5.
- 4.3 Officers must treat suppliers equally and without discrimination and must act in a transparent and proportionate manner.
- 4.4 Before commencing a Procurement procedure officers may conduct market consultations with a view to preparing the Procurement and informing suppliers of their Procurement plans and requirements provided that it does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency. Officers may, for example, seek or accept advice from independent experts or authorities or from market participants.
- 4.5 Officers must take appropriate measures to effectively prevent, identify and remedy conflicts of interest arising in the conduct of Procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all suppliers. This obligation covers any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the Procurement procedure. A conflict of interest form is to be issued to all officers, and retained for all officers involved with a procurement exercise.
- 4.6 Where a candidate or tenderer, or an undertaking related to a candidate or tenderer has advised the Council or has otherwise been involved in the preparation of the Procurement procedure, the Council shall take appropriate measures to ensure that competition is not distorted by the participation of that candidate or tenderer.
- 4.7 Such measures shall include the communication to the other candidates and tenderers of relevant information exchanged in the context of or resulting from the involvement of the candidate or tenderer in the preparation of the Procurement procedure; and the fixing of adequate time limits for the receipt of tenders. The measures taken must be documented
- 4.8 The candidate or tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat suppliers equally and prior to any such exclusion, candidates or tenderers shall be given the opportunity to prove that their involvement in preparing the Procurement procedure is not capable of distorting competition.

5 ROLES AND RESPONSIBILITIES

- 5.1 The Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors, ~~Commissioning Directors~~ and Heads of Service are accountable for all Procurement in their respective Delivery Units/area of responsibility. Their duties in relation to all Procurement and Contract Management are to:

- 5.1.1 ensure compliance with the Law, Council policy and the Contract Procedure Rules;

- 5.1.2 identify, deliver, measure and record value for money;
- 5.1.3 ensure that a written pre-tender estimate of anticipated costs, calculated in accordance with Section 6 (Contract Value Calculation) of these Contract Procedure Rules, is prepared and has Budget provision;
- 5.1.4 identify, evaluate, record and appropriately mitigate risk e.g. provision of performance bond or parent company guarantee;
- 5.1.5 maintain a Scheme of Delegation in accordance with Constitutional requirements;
- 5.1.6 ensure that all appropriate staff comply with the provisions of the Contract Procedure Rules and have attended CSG Procurement training before undertaking Procurement and Contract Management activities;
- 5.1.7 take immediate action in the event of a breach of the Contract Procedure Rules within their area of responsibility;
- 5.1.8 ensure that all new Contracts above the published limits, £10,000, and planned during the forthcoming financial year are clearly identified in their Budget and Annual Procurement Forward Plan (APFP);
- 5.1.9 ensure that Contract terms and conditions to be used in a Procurement have been approved by HB Public Law or a Legal Advisor approved by the Monitoring Officer
- 5.1.10 ensure that an original signed Contract is provided to the Deeds Officer and a digital copy of the signed version, together with Acceptance and Authorisation documents and any waiver of these Contract Procedure Rules are placed in the Council's contract repository and a version approved by the supplier is prepared for publication;
- 5.1.11 ensure that proper records of all Contracts and tenders are kept on the Council's approved Electronic Procurement Portal, which may be inspected and kept for the period specified in the Council's Records Retention and Disposal Policy;
- 5.1.12 ensure that the appropriate Procurement process set out in Section 8 of these Contract Procedure Rules is followed;
- 5.1.13 keep a service area/delivery unit register of all Contracts with total values of £5,000 or over, which may be inspected and will support the annual Budget review. CSG Procurement will keep and publish a consolidated register of all Contracts with total values of £10,000 or over, subject to commercial confidentiality and data protection requirements;
- 5.1.14 ensure that all Contract Management is carried out in accordance with Section 13 (Contract Management) of these Contract Procedure Rules;

6 CONTRACT VALUE CALCULATION

- 6.1 Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire Contract period including any form of options or extensions of the Contract.

- 6.2 For Concession Contracts the estimated value will be the total turnover of the concessionaire generated over the duration of the contract (net of value added tax) in consideration for the works and services which are the object of the concession contract and the supplies incidental to such works and services. Where the Contract term is not fixed the estimated value of the Contract must be calculated by multiplying the monthly spend value by 48 in accordance with Regulation 6 of the Public Contracts Regulations 2015.
- 6.3 Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of Contract Procedure Rules or the Law.
- 6.4 In the case of Framework Agreements or Dynamic Purchasing Systems the contract value must be calculated to include the total estimated value, net of VAT, of all the contracts envisaged for the total term of the Framework Agreement or the Dynamic Purchasing System.

7 AUTHORISATION

- 7.1 Any Procurement, including extensions and variations to Contracts (permitted within the existing Contract) submitted in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee, is deemed as Authorised irrespective of the Contract value.
- 7.2 Any Procurement which has not been Authorised as set out in 7.1 must be Authorised in accordance with Appendix 1 Table A of these Contract Procedure Rules.

8 PROCUREMENT METHOD

- 8.1 Where a Procurement will result in a Framework Agreement, Dynamic Purchasing System or Contract refer to Table A in Appendix 1 of these Contract Procedure Rules to determine the Procurement process that should be used. If any further clarification is required refer to the CSG Procurement Team.
- 8.2 All requirements beneath £9,999 are subject to reasonable means of selection including confirmation of budget and consideration to Barnet's local supplier base, SMEs. All tender opportunities for works, goods or services, over £10,000 (except for Social Care Placements, Special Educational Needs listed in 8.8 and Non-Procurement activities defined in 16.17) must be released using the CSG e-procurement portal and in accordance with Appendix 1, Table A and be subject to Tender Review.
- 8.3 All Procurements for goods and services over £25,000 must be advertised on Contracts Finder within 24 hours of the time when the Procurement is advertised in any other way. Procurement over the EU financial threshold must be advertised in the OJEU first and then on Contracts Finder. A Contract award notice must also be published on Contracts Finder.
- 8.4 Commissioners may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots. They must document the main reasons for their decision not to subdivide into lots.

- 8.5 Where the Procurement is carried out in accordance with 8.1 above and results in a Framework Agreement or Dynamic Purchasing System, any subsequent call-offs must be carried out in accordance with the rules laid down in the Framework Agreement or the Dynamic Purchasing System.
- 8.6 Where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement. Before entering into a Framework Agreement due diligence checks must be carried out to demonstrate that the Council can lawfully access the Framework Agreement and that it is fit for purpose and provides value for money.
- 8.7 Where a performance bond or guarantee is required to ensure Contract performance and/or to protect the Council, the requirement must be pre-notified and the bond or guarantee must be in place before Contract signature.
- 8.8 For Non-Procurement activity that results in a contractual obligation for social care placements and special education needs (SEN) where the decision has been made on the Council's behalf (such as court directed order, personal budget/statement request or an individual's specific needs) the authority to sign off to award an individual funding agreement in accordance with the decision making framework is contained within the Responsibility for Functions as set out in the Constitution.
- 8.9 Procurement activity for Contracts for certain health, social, community, educational and cultural related services whose value is equal to or over the threshold of £ 589,148 must be tendered and awarded in compliance with Chapter 3, Section 7, of the Public Procurement Regulations 2015. Refer to the CSG Procurement Team to advise on the procedures to be applied in connection with the award of these Contracts which will take into account the specificities of the services in question
- 8.10 For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.
- 8.11 The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view. That tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as Life-Cycle Costing, and may include the best price-quality ratio, which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects, linked to the subject-matter of the Contract in question.
- 8.12 Commissioners shall require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, supplies or services

9 SINGLE TENDER ACTION

- 9.1 A single tender action or commitment is not allowed unless it is in compliance with the Law and approved in advance by the ~~Commercial and Customer Services~~ Director of Commercial Services. Single tender action is the awarding of a Contract to a contractor

without undertaking a competitive tendering exercise. Single tender actions are permitted under Regulation 32 of The Public Contracts Regulations 2015 in the following exceptional circumstances:

- where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the Contract are not substantially altered;
- where the works, supplies or services can be supplied only by a particular supplier for any of the following reasons:
 - i. the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,
 - ii. competition is absent for technical reasons,
 - iii. the protection of exclusive rights, including intellectual property rights, but only, in the case of paragraphs (ii) and (iii), where no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement.
- insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the Council, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with;
- in the case of goods contracts, for additional deliveries by the original supplier which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance;
- in the case of works or services contracts, new works and services consisting of the repetition of similar works or services entrusted to the contractor to which the Council awarded the original Contract, provided that such works or services are in conformity with a basic project for which the original Contract was awarded following a competitive procedure under the Public Contracts Regulations 2015. The basic project must indicate the extent of possible additional works or services and the conditions under which they will be awarded. As soon as the first project is put up for tender, the possible use of this procedure shall be disclosed and the total estimated cost of subsequent works or services shall be taken into consideration by the contracting authority when assessing the estimated contract value.

9.2 Where a competition has been undertaken, in accordance with Section 8, and only a single bid has been received, the Commercial and Customer Services Director can approve the award of a Contract, subject to a value for money review being undertaken and an audit trail being available for inspection. The award of the Contract cannot proceed without this authorisation.

- 9.3 Single tender actions for contract awards above the EU financial threshold will only be agreed where one or more of the circumstances set out in rule 9.1 apply. Otherwise approval for single tender actions is only likely to be granted for contracts, including works contracts, below the financial threshold for services and supplies contracts (currently £164,176).

10 CONCESSION CONTRACTS

- 10.1 The Concession Contracts Regulations 2016 (CCR) apply to the award of works Concession Contracts or services Concession Contracts above £4,104,394
- 10.2 Concession Contracts must meet the following requirements:
- The award of the contract involves the transfer to the concessionaire of an operating risk in exploiting the works or services encompassing demand or supply risk or both.
 - The part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible. The concessionaire shall be deemed to assume operating risk where, under normal operating conditions, it is not guaranteed to recoup the investments made or the costs incurred in operating the works or the services which are the subject-matter of the Concession Contract
- 10.3 The same general principles that apply to other procurement rules apply to the award of Concession Contracts. In particular, the Council must treat providers equally and without discrimination and must act in a transparent and proportionate manner.
- 10.4 Seek advice from CSG Procurement and/or Legal Services if you are consider that you might want to award a Concession Contract

11 INFORMATION GOVERNANCE

- 11.1 When engaging a contractor to provide a service to the Council which involves the handling of personal data due diligence checks must be carried out with regards to data protection. Checks must provide sufficient guarantees that the contractor's technical and organisational security measures for the handling and protection of personal information and data are appropriate, suitable and lawful. This is a requirement under the seventh principle of the Data Protection Act.
- 11.2 To ensure compliance with information management requirements all procurement activity must include the completion of the information management questionnaire by the supplier. This will be made available for all activity conducted through the procurement porta. However for lower values beneath £9,999 it is the service area/delivery unit's responsibility to ensure that the questionnaire is completed by suppliers awarded contracts.
- 11.3 Evidence of these checks, copies of policies and guarantees provided by the contractor must be retained by the officer responsible for management of the Contract and be regularly reviewed throughout the life of the Contract (at least annually). If there is any doubt as to

whether the checks provide sufficient guarantees for the service provision refer to the Council's Information Management team.

- 11.4 Appropriate data protection clauses must be included in the Contract when engaging a contractor to provide a service to the Council which involves the handling of personal data. As a minimum the clauses contained in the Council's Standard Terms and Conditions of Contract must be used. Changes must not be made without consultation with the Council's Information Management Team.
- 11.5 Refer to the Council's Data Protection Compliance Toolkit for further guidance on your data protection responsibilities, including the current Due Diligence Checklist and the How to Guide.
- 11.6 Appropriate Freedom of Information Act 2000 (FOI) and Environmental Information Regulations 2004 (EIR) clauses must be used when engaging a contractor to provide a service to the Council. The clauses contained in the Council's Standard Terms and Conditions of Contract must be used. Changes must not be made without consultation with the Council's Information Management Team. The Contract must not contain clauses which say that the Contract itself or any information held or produced etc under it are exempt from FOI or EIR. The Contract must not contain any clauses which describe which information would be exempt from disclosure under FOI or EIR.
- 11.7 Refer to the Council's FOI/EIR Toolkit for further guidance on your FOI/EIR responsibilities.

12 ACCEPTANCE

- 12.1 Acceptance of Contracts must be in accordance with Appendix 1 Table A and in all cases is subject to:
- Budget provision;
 - a compliant Procurement process; and
 - confirmation of acceptable financial status of the service provider
- 12.2 Acceptance of contracts with independent providers of individual placements for children or adults will in the first instance be achieved through approved frameworks or approved lists of providers. Where requirements cannot be met through approved frameworks or approved lists, authority is delegated to the relevant director of a service area as per the scheme of delegation to enter into contract with a new independent provider. At the point of child/adult placement the Council does not require a contract; however, once placement has been made the commissioner should instruct legal to issue a contract to the new provider.
- 12.3 Acceptance thresholds for Contract extensions and variations of all values are subject to further conditions as set out in Section 14 (Extensions and Variations) of these Contract Procedure Rules.
- 12.4 The financial evaluation of tenders will be undertaken by:

- CSG Procurement if the Contract is valued at less than £164,176 for supplies or services or less than £4,104,394 for works, or;

A Financial Officer as delegated by the Chief Finance Officer if: (a) the contract is valued at £164,176 or more, for supplies or services; or (b) the contract is valued at £4,104,394 or more for works; or (c) the contract is considered to have significant impact on the local community.

13 CONTRACT SIGNING and SEALING

- 13.1 Every Contract or Contract novation must be in a form approved by the Monitoring Officer (in consultation with HB Public Law) or delegated officer, if its value exceeds £25,000 or where appropriate to the nature of the Contract.
- 13.2 All Contracts awarded following a Procurement process with a Contract value above the EU financial threshold shall be sealed unless the Monitoring Officer or delegated officer directs otherwise.
- 13.3 Contracts, Dynamic Purchasing Systems, approved lists or Framework Agreements entered into with respect to the provision of social care to individual service users must be sealed. Call-off placements from a Framework Agreement under the EU financial threshold do not require sealing and need only be signed by the respective Director in accordance with the Scheme of Delegation.
- 13.4 Where the Monitoring Officer or delegated officer considers it desirable that a Contract should be sealed other than as specified above, then such a Contract must be sealed.

14 CONTRACT MANAGEMENT

- 14.1 During the life of the Contract the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors, ~~Commissioning Directors~~ and Heads of Service must ensure that the Council's approved processes for Contract Management, as set out in the Contract Management Toolkit are adhered to. In particular to ensure continuous improvement and value for money is achieved the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors, ~~Commissioning Directors~~ or Heads of Service must ensure that those responsible for managing contracts undergo CSG Procurement approved training to ensure:
- Contract performance and key performance indicators are monitored and any reduction in performance is acted upon and recorded;
 - compliance with specification and Contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered;
- 14.2 Throughout the life of the Contract, contract managers must ensure the elimination of unlawful discrimination and the promotion of equality in accordance with current Law.

- 14.3 Contract managers or owners must ensure appropriate security measures are applied to prevent the unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data.
- 14.4 On each and every procurement the Contract Manager must ensure the agreement has:
- a) wording in which the contractor agrees to indemnify the Council for all claims proceedings, actions and other matters relating to the contract, except where the Council is found to be legally liable; and
 - b) a clause in which the contractor agrees to certain service levels while dealing with claims arising from service failures; and
 - c) a clause requiring the full range of relevant insurances and minimum levels to be provided by the contractor.

Advice on relevant insurances must be obtained from the London Borough of Barnet Insurance Team.

It should be noted the minimum level of required insurances of contractor is not directly related to the value of the contract. Using a risk based approach the Contract Manager and London Borough of Barnet Insurance Team will agree appropriate levels but as a guide, minimum levels, subject to amendment are as follows:-

- 1) public liability £5,000,000;
- 2) employer's liability £5,000,000 (statutory minimum);
- 3) officials indemnity/professional negligence (if required) £1,000,000; and
- 4) any other insurance required by law or agreed in the contract.

The Contract Manager must obtain from the contractor reasonable proof of the required insurance as set out in the contract before work commences, a broker letter will often be sufficient.

If the required insurances expire before the contract end date, the Contract Manager must obtain from the contractor reasonable proof that the insurance has been renewed on expiring terms and conditions. If the insurance policy terms and conditions have changed, such changes must be brought to attention of the Contract Manager and discussed with the London Borough of Barnet Insurance Team.

- 14.5 For all contracts, in excess of £25,000, business continuity must be discussed and a business continuity plan confirmed as part of contract delivery.
- 14.6 All contracts to be managed to ensure development and delivery of support to the local community and SME supply chain through the contract arrangement. This is to be monitored as a performance target to enable review reports.
- 14.7 For services or supplies Contracts valued above £164,176 and works Contracts above £500,000 a Contract monitoring and review check must be performed 6 months after Contract commencement.

15 EXTENSIONS and VARIATIONS

- 15.1 Regulation 72 of the Public Contracts Regulations 2015 permits an amendment, extension or renewal of an existing Contract without triggering a new Procurement exercise in the following cases:
- a) The original Contract includes a “clear, precise and unequivocal review clause” (including a price review clause) allowing for a certain modification to be made, provided the review clause(s) clearly state(s) the scope and nature of the changes that can be made and the conditions under which such a change can be made. The overall nature of the Contract must not be altered as a result of the change;
 - b) A change of contractor cannot be realistically made for economic or technical reasons and would cause significant inconvenience or substantial duplication of the Council’s costs, and new works, services or supplies need to be purchased from the contractor. This is subject to the provision that each change does not increase the Contract’s value by more than 50 per cent as a result;
 - c) Circumstances have arisen that the Council could not reasonably have foreseen and that require an amendment to the existing Contract. The Contract’s overall nature must not be altered and the Contract’s value must not increase by more than 50 per cent as a result of any change;
 - d) A new contractor is required to replace the contractor originally party to the Contract, either because this is the result of corporate restructuring, including takeover, merger, acquisition or insolvency leading to a universal or partial succession of the original contractor, or because this change was envisaged in a review clause in the original Contract. This provision cannot be relied on if the contractor is being replaced for a different reason;
 - e) The proposed modifications are insubstantial. Modifications will not be insubstantial if they result in any of the following:
 - the Contract would become materially different;
 - the scope of the Contract would extend considerably;
 - the outcome of the initial Procurement procedure would have been different had the modification been implemented at that time. For example, other tenders would have been accepted or other candidates would have been admitted;
 - the economic balance would shift in favour of the contractor; or
 - a new contractor would replace the original contractor in a circumstance not provided for in d) above.
 - f) The value of the modification is both below the EU procurement financial threshold and less than 10 per cent of the initial Contract value (where the contract is for supplies or services) or less than 15 per cent of the initial Contract value, in the case of a works contract. More than one change can be made under this provision

provided the cumulative value of the modifications do not exceed the EU procurement financial threshold.

- 15.2 Commissioners must consult CSG Procurement to confirm that any of the circumstances set out in section 14.1 above apply, permitting a Contract amendment, extension or renewal and Commissioners must also comply with the Authorisation and Acceptance Thresholds in Appendix 1 Table A.
- 15.3 Placement Agreements for individuals in Social Care or Educational Needs may be varied or extended without reference to the Variation or Extension Acceptance levels and documentation set out in Appendix 1 Table A.
- 15.4 The value referred to in Appendix 1 Table A in the column headed 'Variation or extension Acceptance' is the total value of the original Contract value plus the addition of the value of any extensions and/or variations i.e. the total value of the extended or varied Contract.
- 15.5 Contracts may only be extended or varied if all of the following conditions have been met:
- the initial Contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
 - the value of the extension or variation added to the value of the original Contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A;
 - the extension or variation has an approved Budget allocation;
 - the extension or variation is in accordance with the terms and conditions of the existing Contract;
 - if the initial Contract was subject to an EU regulated tender procedure, that the extension option was declared within the OJEU contract notice and the original Acceptance report (Delegated Powers Report/relevant Committee Report); and
 - the Contract has not been extended before;
- 15.6 Where the Procurement results in a Contract which includes a provision for an extension, any Acceptance of that extension needs to be in accordance with Appendix 1 Table A.
- 15.7 If any of the conditions at 14.4 or 14.6 cannot be met, then a new Procurement exercise must be commenced.
- 15.8 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with Appendix 1 Table A.
- 15.9 A Contract Variation Notice needs to be sent to OJEU in the case of contract variations permitted and made in accordance with paragraphs b) and c) of section 14.1 above.

16 WAIVERS

- 16.1 If the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors or Assistant Directors, Commissioning Directors and Heads of Service may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 16.2 The Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors, Commissioning Directors and Heads of Service may take decisions on emergency matters (i.e. an unexpected occurrence requiring immediate action) in consultation with the Chairman of Policy and Resources Committee providing they report to the next available Policy and Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant Policy and Resources Committee report must be provided to CSG Procurement and stored on the Council's contract repository.
- 16.3 Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.
- 16.4 Any waiver can only be granted for a maximum period of 12 months.
- 16.5 Waivers cannot be granted where this would breach the Law

17 DEFINITIONS and INTERPRETATION

- 17.1 **"Acceptance"** is the authorisation to enter into a Contract with a particular supplier(s) on the terms, conditions and at the price(s) as set out in the Contract documents.
- 17.2 **"Annual Procurement Forward Plan"** (APFP) means the annual report compiled by the Council setting out their planned contractual Procurements for the forthcoming financial year and submitted to the Policy and Resources Committee for authorisation.
- 17.3 **"Approved Officer"** means the Director, Assistant Director, Service Lead, Commissioning Director or Head of Service in accordance with the Scheme of Delegation who has responsibility for all Contracts tendered and let by their respective area of responsibility including Contract monitoring and Contract Management once Contract is in place.
- 17.4 **"Authorisation"** is the approval required to enable any Procurement to occur.
- 17.5 **"Budget"** is the annually agreed budget and supporting plans and strategies for each Delivery Unit.
- 17.6 **"Concession Contract"** means a services concession contract or a works concession contract as defined in The Concession Contracts Regulations 2016. They are contracts for pecuniary interest which consist either solely in the right to exploit the services or works that are the subject of the contract or in that right together with payment.
- 17.7 **"Contract"** means a formal written agreement between the Council and the provider of any goods, services or works, including terms and conditions approved by HB Public Law.

- 17.8 **“Contract Management”** is the process of managing contracts to achieve optimal goods, works and services at optimal cost in accordance with the Council’s Contract Management Toolkit
- 17.9 **“Contracts Finder”** means a web-based portal provided for the purposes of Part 4 of the Public Contracts Regulations 2015 by or on behalf of the Cabinet Office;
- 17.10 **“DPR”** means Delegated Powers Report. Templates and guidance for completion are available from the Assurance Group (Governance).
- 17.11 **“Dynamic Purchasing System”** is appropriate for commonly used purchases the characteristics of which, as generally available on the market, meet the Council’s requirements. The rules for using it are set out in regulation 34 of the Public Contracts Regulations 2015.
- 17.12 **“Emergency”** where immediate action is needed to protect life or property or to maintain a critical service. Decisions that were not anticipated within the Budget or Budget plan but nevertheless relate to everyday business, not major changes/decisions outside the approved Budget and statutory plans.
- 17.13 **“EU”** means European Union.
- 17.14 **“Framework agreement”** is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
- 17.15 **“Law”** means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Council is bound to comply
- 17.16 **“Life-Cycle Costing”** shall, to the extent relevant, cover part or all of the following costs over the life cycle of a product, service or works:—
- (a) costs, borne by the Council or other users, such as:
 - (i) costs relating to acquisition,
 - (ii) costs of use, such as consumption of energy and other resources,
 - (iii) maintenance costs,
 - (iv) end of life costs, such as collection and recycling costs;
 - (b) costs inputted to environmental externalities linked to the product, service or works during its life cycle, provided their monetary value can be determined and verified. These costs may include the cost of emissions of greenhouse gases and of other pollutant emissions and other climate change mitigation costs
- 17.17 **“Light Touch Regime”** refers to the contract award procedures applicable to contracts for services set out in schedule 3 of the Public Contracts Regulations 2015 which are valued at EUR 750,000 (or around £589,148) or more. These contract opportunities and contract award notices must be advertised in OJEU and Contracts Finder. CSG

Procurement will advise on the Procurement procedures to apply to these Contracts which will take into account the specifics of the services in question and which will ensure compliance with the principles of transparency and equal treatment of suppliers.

- 17.18 **“Non-Procurement”** expenditure applies where the Council has to pay for a Service which it did not initiate or for payments where it is not appropriate to tender including (but not exclusively) inter-authority and inter-agency payments, subscriptions/memberships, emergency temporary accommodation for vulnerable people, assessments and recoupment.
- 17.19 **“OJEU”** means the Official Journal of the European Union.
- 17.20 **“Procurement”** means the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose. This includes any activity which includes the identification of need, options appraisal and the execution of a competitive selection process, quotation or tendering process.
- 17.21 **“Public Contracts Regulations 2015”** are the regulations implementing EU Directive 2014/24/EU of the European Parliament and Council into English Law
- 17.22 **“Purchase”** means the activity which uses a mechanism to undertake procurement under the Council’s standard terms and conditions (Purchase Card or Purchase Order) or against an accepted contract.
- 17.23 **“Quotation”** means a priced bid for the provision of goods, a service, or supply of works.
- 17.24 **“Reasonable means of selection”** means an unbiased selection process based on the relative merits of the quotation provided and taking account of previous purchasing practices for supplies, services or works of a similar type. This process would normally involve attaining more than one quotation, audit trail of action undertaken and confirmation from the relevant approved officer that budget is available and rationale for appointment is accepted. The Council requires that consideration is given to local suppliers for requirements less than £9,999
- 17.25 **“Small Medium Enterprises” (SMEs)** means the definition the UK government use based on the EU Definition of an SME as follows:
- Micro Business = less than 10 employees & turnover under £2 million
 - Small Business = less than 50 employees & turnover under £10 million
 - Medium Business = Less than 250 employees & turnover under £50 million
- 17.26 **“SQ”** means Selection Questionnaire in accordance with Procurement Policy Note (PPN) 8/16 regarding OJEU procurements. Accessibility to the form will be via the procurement portal with expectation that suppliers complete and submit online. In accordance with Public Contract Regulations 2015 these questions are to be in the form of declarations with successful contractor to provide support documents at point of proceeding to contract award.
- 17.27 **“Suitability Assessment Question”** means a question which relates to information or evidence which the Council requires for the purpose of assessing whether candidates

meet requirements or minimum standards of suitability, capability, legal status or financial standing. In accordance with Public Contract Regulations 2015 these questions are to be in the form of a declaration which the is to provide at point of proceeding to contract award.

- 17.28 “**Support to Local Community**” refers to support through contract delivery to the communities which exist within London Borough of Barnet and delivery of benefit to these communities. Benefit to include: consideration and provision of paid internships; apprenticeships; long term unemployed returning to work opportunities; and support to local schools/community groups.
- 17.29 “**Works**” means building & engineering works, construction and refurbishment, including capital works.

18 APPENDIX 1 - TABLE A – Authorisation and Acceptance Thresholds

	Procurement value	Authorisation to commence a procurement process	Authorisation Documentation	Procurement method	Acceptance process	Acceptance Documentation	Variation or extension Acceptance	Supplier Notification method and contract
A	Under £9,999 (Purchase Order)	Head of Service Council Officer as designated by approved Scheme of Delegation	Audit trail	Reasonable means of selection* and evidence of having sourced and considered the local Barnet supplier market	Head of Service Council Officer as designated by approved Scheme of Delegation	Audit Trail	Must move to next threshold if above £10,000	Purchase Order
B	£10,000 to £25,000	Head of Service Council Officer as designated by approved Scheme of Delegation	Procurement Forward Plan Summary DPR	Minimum 2 written Competitive Quotations received**	Head of Service Council Officer as designated by approved Scheme of Delegation	Summary DPR	Summary DPR	Purchase Order
C	£25,001 - £164,176	Director/Assistant Director	Procurement Forward Plan Full Officer DPR	Minimum 2 written Competitive Quotations received No PQQ -	Council Officer as designated by approved Scheme of Delegation	Summary DPR	Summary DPR	Notification letter Signed low value contract up to £50k value

				Suitability Assessment Questions only				Signed contract £50,001 to £164,176k
D	£164,176 and over	Relevant Thematic Committee Procurement Forward Plan	Theme Committee Report Procurement Forward Plan	Works and Concession Contracts: Full OJEU Tender above £4,104,394 Beneath threshold above £100k minimum 5 competitive quotations Goods: Full OJEU Tender Services: Full OJEU Tender Health, educational, cultural and social care related services: Light Touch Regime Tender above. (£589,148)	If within Budget- Council Officer in consultation with Chairman of relevant theme Policy and Resources Committee	If within Budget and agreed savings target on forward plan Officer Full DPR If not within Budget or on Forward Plan Relevant Thematic Committee Report	If within Budget -Relevant Thematic Committee	Standstill Notification letter released following statutory officer report review Publication of report post standstill period Signed and sealed contract

All Procurements above £10,000 must be advertised on the E-portal (see 8.2). All Procurements over £25,000 must be advertised on UK Contracts Finder

*Reasonable means of selection as defined in section 16.24

**Under OJEU threshold the Commercial and Customer Services Director may waive the requirement of 2 written quotes subject to a Summary DPR provided, demonstrating that the market place has been fully tested and we have obtained value for money.



The Management of Asset, Property and Land Rules

CONTENTS

1	INTRODUCTION	3
2	APPLICATION	3
3	SCOPE	5
4	REGULATION & LEGISLATION	5
5	ROLES AND RESPONSIBILITIES	5
6	ASSET VALUE CONSIDERATION	6
7	AUTHORISATION	6
8	ASSET ACQUISITION, VARIATION AND DISPOSAL METHOD	76
9	INFORMATION GOVERNANCE.....	7
10	ACCEPTANCE	7
11	CONTRACT SIGNING and SEALING	87
12	WAIVERS.....	8
13	DEFINITIONS.....	8
14	APPENDIX 1 - TABLE A – Authorisation Delegated Powers.....	10
15	APPENDIX 2 - TABLE B – Acceptance Delegated Powers	12

1 INTRODUCTION

- 1.1 The Council's holdings of Land and Property (the Built Environment) are a Corporate resource. Directors will keep these holdings under review as part of the Property Review Process managed by the [Chief Operating Officer](#) [Director of Resources](#).
- 1.2 Asset Portfolio management and its valuation affect the most important decisions a Council makes because the Council is tasked to ensure that the Built Environment supports the delivery and development of its Services and Localism obligations. The Council's reputation is also important and should be safeguarded from any suggestion of dishonesty, corruption or failure to meet legal and fiduciary responsibilities.
- 1.3 Effective Asset Portfolio management maintains the condition of Assets within the Built Environment, reducing the risk of accidents, enhancing compliance with Health and Safety Regulations, and reducing the risk of Manslaughter actions against the Council.
- 1.4 Any change to the Asset Portfolio must comply with the Management of Asset, Property and Land Rules, Council Policy, Constitution and English law. It is a disciplinary offence to fail to comply with the Management of Asset, Property and Land Rules when undertaking Asset Portfolio Development or Maintenance on behalf of the Council. Council employees, Contractors and Service Providers contracted to the Council have a duty to report breaches of these Rules to an appropriate senior manager and the [Chief Operating Officer](#) [Director of Resources](#).
- 1.5 All Asset Portfolio Development activities must be undertaken with regard to the high standards of probity and professionalism set out within the Royal Institution of Chartered Surveyors (RICS) Red Book. The Council has a commitment to transparency and it is important that the Measurement and Valuation processes applied to Asset, Property and Land Development are as transparent and open as possible.

2 APPLICATION

- 2.1 The Management of Asset, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop, appropriate, change use of, or dispose of Assets within its Asset Portfolio.
- 2.2 The Council may delegate responsibility to Authorised Service Providers to manage the Council's Asset portfolio on its behalf, within the boundaries set by these Rules.
- 2.3 The aims of these rules are to:
 - ensure Best Consideration is achieved on the disposal of council assets (unless a Less Than Best Transaction is approved).
 - propriety in spending public money (such as for acquisitions)
 - enable the development of a balanced Asset Portfolio which is fit for purpose when applied to the delivery of Council services

- enable the Built Environment to be maintained and developed in a manner which enhances Social Value;
 - ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant Asset Portfolio activity;
 - ensure compliance with English law and the current standards and methods of Asset Portfolio measurement and valuation and as defined within the RICS Red Book; and
 - enable Council, authorised Third Party Providers and Third Sector Services to be delivered effectively and efficiently across the Borough
- 2.4 The Assets, Regeneration and Growth Committee may, from time to time, recommend to the Constitution, Ethics and Probity Committee and Council that these rules be amended.
- 2.5 Reference must be made to any approved Scheme of Delegation with regard to identifying any manager with the right to initiate change to the Asset Portfolio as delegated by their Director. Schemes of Delegation will be maintained by the relevant Director and will be published on the Council's website.
- 2.6 Reference must be made to the Council Corporate Plan, which informs the Strategic Asset Management Plan and is delivered through the Annual Work Plan.
- 2.7 The Council may delegate responsibility to Authorised Service Providers to develop and deliver the Strategic Asset Management Plan and Annual Work Plan through the adoption of an Approved Management Structure.
- 2.8 The Strategic Asset Management Plan will govern decisions on the future direction and development of the Council's Built Environment.
- 2.9 An Annual Work Plan will govern decisions on whether to:
- i. Dispose of an Asset for purposes in accordance with Corporate Plan objectives, or;
 - ii. Lease, licence or rent an asset, or;
 - iii. Appropriate an asset
- 2.10 When a school takes Academy status they are granted a 125 year lease of the land and buildings at a notional rent. While the council retain the freehold, the school is free to manage, maintain, and licence as it sees fit. It cannot however dispose of its interest. The Academies Act 2010 has a number of qualifications and conditions, but broadly speaking apart from disposal, or granting an interest in the land that will require our consent, they are free to use and manage as they choose. Any ancillary accommodation must be wholly or mainly used by the school to transfer under the Academies Act 2010.
- 2.11 All Qualified Officers who undertake Asset Portfolio maintenance and development must do so in a manner which avoids any potential conflict of interest, is consistent with procedures set out in the Staff Handbook, and complies with the standards defined within the RICS Red Book and other approved Professional Bodies.

- 2.12 The ~~Chief Operating Officer~~[Director of Resources](#) shall maintain, issue and publish the Management of Asset, Property and Land Rules, the Strategic Asset Management Plan and the Annual Work Plan.
- 2.13 Unless the context otherwise requires, terms used in these Management of Asset, Property and Land Rules shall have the meanings ascribed to them as set out in the Definitions section 13 of these rules.
- 2.14 The Management of Asset, Property and Land Rules are not subject to Contract Procedure Rules or the Procurement Code of Practice except when maintenance or alteration works and related services are procured.
- 2.15 Reference must be made to the Management of Assets, Property and Land Procedures for detailed explanation of the processes associated with these Rules.
- 2.16 In the event of reporting the results of public advertising of the disposal of Public Open Space under Section 123 (2) (A) of the Local Government Act 1972, if the relevant Director is not able to comply with the normal reporting cycle, and needs to proceed with urgency, then the Director must inform Ward Members of the results of the advertising so that individual Wards are able to consider and make representation to the Director if desired.

3 SCOPE

- 3.1 The Management of Asset, Property and Land Rules apply to all changes to the Asset Portfolio owned by or leased to the Council.
- 3.2 Where the Council is entering into a contract as an agent or in collaboration with another public body or government department, these Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as Principal, the Management of Asset, Property and Land Rules will take precedence.

4 REGULATION & LEGISLATION

- 4.1 Any significant changes to existing legislation or measurement standards and methods which impact upon the Asset Portfolio will be reflected in changes to the Annual Work Plan, Strategic Asset Management Plan and the Corporate Plan.
- 4.2 The Management of Asset, Property and Land Rules will be reviewed and updated by the Authority's Estates Services with any significant changes referred to the Constitution, Ethics and Probity Committee in accordance with paragraph 2.12 above.

5 ROLES AND RESPONSIBILITIES

Directors of the Council who deliver services from Authority owned or leased buildings are responsible and accountable for the following;

- 5.1 ensuring compliance with English law, Council Policy, the Management of Asset, Property and Land Rules, and the Regulatory Framework defined by the Royal Institution of Chartered Surveyors;

- 5.2 ensuring that Annual Asset valuations are carried out and recorded based upon CIPFA rules;
- 5.3 establishing and maintaining a system of Asset Life Cycle Management, based upon a published register of Council Assets and rolling 5 year Condition Surveys;
- 5.4 identifying, evaluating, recording and appropriately mitigating risk in connection with the delivery of Services through the Council's Asset Portfolio;
- 5.5 maintaining a Scheme of Delegation in accordance with Constitutional requirements;
- 5.6 taking immediate action in the event of a breach of the Management of Asset, Property and Land Rules within their Delivery Unit;
- 5.7 ensuring that proper records are kept of all changes to the Council Asset Portfolio, which may be inspected by a Member of the Council and kept for the period specified in the Council's Records Retention and Disposal Policy;
- 5.8 establishing and administering a Corporate infrastructure for the management of Health and Safety;
- 5.9 Items 5.1 to 5.8 above are to be delivered in conjunction with the Authority's Estates Services.

6 ASSET VALUE CONSIDERATION

- 6.1 Assets will be valued using measurements and methods defined within the RICS Red Book.
- 6.2 Asset valuations may only be made by Council Officers or Third Party Agents qualified to do so through membership of RICS, and as a registered Valuer.
- 6.3 Asset acquisition, development and disposal decisions will be taken upon the basis of Best Consideration applicable at the time of the decision, rather than highest price. A Less than Best Consideration offer may be recommended to Council under special circumstances, following approval by the Secretary of State for Communities and Local Government if it falls outside the scope of the General Disposal Consent 2003.

7 AUTHORISATION

- 7.1 Any Asset acquisition or disposal included in the Annual Work Plan, as approved by Assets Regeneration and Growth Committee, is deemed as Authorised irrespective of value. Any Asset acquisition or disposal which has not been Authorised as set out in 7.1 must be Authorised in accordance with Delegated Powers as shown in Table A in Appendix 1 of these Management of Asset, Property and Land Rules.
- 7.2 The ~~Chief Operating Officer~~[Director of Resources](#) or designated Officer authorised under a Scheme of Delegation may seek a change of service use decision of a Council Asset from the Assets, Regeneration and Growth Committee

8 ASSET ACQUISITION, VARIATION AND DISPOSAL METHOD

- 8.1 The method by which an Asset is acquired or disposed of should be based upon market testing to ensure that Best Consideration is obtained wherever possible.
- 8.2 In the event that market testing is not appropriate then an Independent Valuation must be obtained, provided either by a RICS qualified valuer or the District Valuation Service.
- 8.3 The method employed when acquiring or disposing of an Asset must be consistent with those prescribed within the RICS Red Book in order to safeguard Best Consideration.
- 8.4 The Council must apply appropriate Planning and Building Control rules when changing the use of an Asset.
- 8.5 Any variation to a decision taken by Assets, Regeneration and Growth Committee needs to be processed in accordance with the scheme of delegation detailed in Appendix 1.

9 INFORMATION GOVERNANCE

- 9.1 When acquiring or disposing of Council Assets the Senior Responsible Council Officer or Third Party Agent must ensure due diligence checks are carried out to provide sufficient guarantees that the seller or buyer technical and organisational security measures for handling and protection of information and data are appropriate, suitable and lawful. This is a requirement under Principle 7 of the Data Protection Act.
- 9.2 Evidence of these checks, copies of policies and guarantees provided by the seller or buyer must be retained by the Delivery Unit responsible for management of the Asset and be regularly reviewed throughout the life cycle of the Asset.

10 ACCEPTANCE

- 10.1 Acceptance of Asset acquisition or disposal in all cases is subject to:
 - a. Evidence of Best Consideration;
 - b. Evidence of appropriate consultation when required;
 - c. Budgetary provision;
 - d. A compliant Asset Management process; and
 - e. Confirmation of acceptable financial means of a buyer when considering Asset disposal.
- 10.2 Powers are delegated to Officers to accept the outcome of Asset acquisition or Disposal recommendations subject to Table B in Appendix 2.

11 CONTRACT SIGNING and SEALING

- 11.1 Every contract, deed or contract novation must be in a form approved by the Monitoring Officer (on consultation with HB Public Law) or delegated Officer.

12 WAIVERS

- 12.1 In the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Lead Commissioners and Heads of Service may apply for a waiver. All applications for a waiver of these Land Rules must be submitted to Assets Regeneration and Growth Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 12.2 Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.
- 12.4 Any waiver can only be granted for a maximum period of 12 months.

13 DEFINITIONS

- 13.1 **“Acceptance”** is the authorisation to conclude an Asset acquisition, change or disposal process;
- 13.2 **“Acquisition”** is the process by which the Council adds Assets to its Asset Portfolio;
- 13.3 **“Third party Agent”** is a qualified person contracted to act on behalf of the Council;
- 13.4 **“Appropriation”** - The transfer of land from one service use to another;
- 13.5 **“Asset Life Cycle Management”** is the overall process by which a Council Asset is managed, from acquisition through ongoing maintenance and alteration, through to addressing dilapidations and disposal;
- 13.6 **“Annual Work Plan”** is the annual, detailed plan upon which Asset Portfolio actions are programmed;
- 13.7 **“Approved Officer”** means any Director, Assistant Director, Lead Commissioner or Head of Service in accordance with the Scheme of Delegation who has responsibility for client management of the Estates function. all contracts tendered and let by their respective area of responsibility including contract monitoring and management once contract is in place.
- 13.8 **“Authorisation”** is the approval required to enable an Asset acquisition, change or disposal process to commence;
- 13.9 **“Best Consideration”** is the best value that is reasonable obtained for an Asset. Under the Local Government Act 2000;.
- 13.10 **“Less Than Best Transaction”** is where Councils may dispose of land at under best value where this is done to secure the promotion or improvement of the economic, social or environmental well-being of the area;

- 13.11 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery;
- 13.12 **“Built Environment”** is the buildings and other human made space in which people live, work and use for recreation on a day to day basis;
- 13.13 **“Condition Surveys”** are detailed reports of the physical condition of an Asset within the Asset Portfolio of the Council;
- 13.14 **“Corporate Plan”** is the plan which set out the Council’s main strategic challenges and priorities on an annual basis, and the way in which they will be tackled;
- 13.15 **“Disposal”** is the process by which a Council Asset is sold or leased;
- 13.16 **“Strategic Asset Management Plan”** is the strategic planning document designed to develop the Asset Portfolio to achieve the Corporate Objectives of the Council;
- 13.17 **“Lease”** is a legal document which outlines the terms by which the Council agrees to exclusively rent land or property either to or from another Third Party for a specified time;
- 13.18 **“Licence”** is a right to occupy land or a property for a defined period of time;
- 13.19 **“Market Testing”** is the process by which Assets for disposal are offered in the market in order to attract competitive bids to secure best consideration;
- 13.20 **“Monitoring Officer”** is defined within the Constitution as the Chief Officer of the Council, or delegated officer;
- 13.21 **“Asset Portfolio”** is the register of Council Assets (Land and Buildings) wholly or partially owned, or leased by the Council;
- 13.22 **“Red Book”** is the Regulatory Framework of Standards and Best Practice Methods and Processes employed by Members of the Royal Institution of Chartered Surveyors when engaged in Asset Life Cycle Management and Asset Valuation;
- 13.23 **“Royal Institution of Chartered Surveyors” (RICS)** is the Regulatory Body charged with establishing a Framework of Standards, Methods and Processes which are compliant with English law and represent Best Practice within the Asset Management profession;

14 **APPENDIX 1 - TABLE A – Authorisation Delegated Powersⁱ**

	Authorisation Level ⁱⁱ	Acquisitions	Lease in	Lease out for Rent or Consideration	Licences, Easements and Consents	Compensations, Settlements and Covenants	Disposals
A	Less than £25,000	Summary DPR – Approved Officer	Summary DPR – Approved Officer	Summary DPR – Approved Officer	Summary DPR – Approved Officer	Summary DPR – Approved Officer	Full DPR – Director of Resources (unless a Less Than Best transaction, which must be reported to Assets, Regeneration and Growth Committee (ARG))
B	£25,001 to £100,000	Full DPR – Director of Resources in consultation with the Chairman of the appropriate Committee	Full DPR – Director of Resources in consultation with the Chairman of the appropriate Committee	Full DPR – Director of Resources in consultation with the Chairman of the appropriate Committee	Summary DPR – Director of Resources in consultation with the Chairman of the appropriate Committee	Summary DPR – Director of Resources in consultation with the Chairman of the appropriate Committee	
C	More than £100,001	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)

ⁱ This Table applies to Land and Building activity NOT included in the approved Annual Work Plan

ⁱⁱ These values may be either Capital or Annualised Income/Expenditure

D	'Non-Value' Variations post Authorisation	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Summary DPR – Director of Resources Report to next Asset Regeneration and Growth Committee (ARG)
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15 **APPENDIX 2 - TABLE B – Acceptance Delegated Powers (Acquisitions and Disposals)**

	Authorisation Level	Acceptance meets Authorisation Criteria and is Compliant	Acceptance does not meet Authorisation Criteria, or is not Compliant
A	Less than £10,000	Approved Officer sign off with Summary DPR	Summary DPR – Director of Resources
B	£10,001 to £25,000	Summary DPR - Director of Resources	Summary DPR – Director of Resources Chief Operating Officer
C	£25,001 to £100,000	Summary DPR – Director of Resources Chief Operating Officer note to Assets, Regeneration and Growth Committee	Full DPR – Director of Resources Chief Operating Officer
D	More than £100,000	Assets, Regeneration and Growth Committee Report	Assets, Regeneration and Growth Committee Report

	<p>COUNCIL</p> <p>25 July 2017</p>
<p>Title</p>	<p>Report of Head of Governance</p>
<p>Report of</p>	<p>Head of Governance</p>
<p>Wards</p>	<p>All</p>
<p>Status</p>	<p>Public</p>
<p>Enclosures</p>	<p>Appendix A – Changes to Calendar of Meetings Appendix B – Appointments to Outside Bodies (to follow)</p>
<p>Officer Contact Details</p>	<p>Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk</p>

<p>Summary</p>
<p>This item presents various constitutional and administrative matters for Council’s agreement. Full details are as set out in the appended reports.</p>

<p>Recommendations</p>
<ol style="list-style-type: none"> 1. That the Council note the change to the Calendar of Meetings. 2. That Council make an appointment to the outside body as listed in Appendix B.

1. WHY THIS REPORT IS NEEDED

1.1 The Head of Governance report seeks Council’s approval for various matters of business relating to the Council’s statutory and constitutional functions.

2. REASONS FOR RECOMMENDATIONS

2.1 As set out in the attached appendices.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 N/A.

4. POST DECISION IMPLEMENTATION

4.1 Council decisions will be minuted and implemented through the Head of Governance.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 As set out in attached appendices.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Any specific implications are set out in the attached appendices.

5.3 Legal and Constitutional References

5.3.1 Council Constitution, Full Council Procedure Rules – requires that Council “Agree the Council Calendar of meetings including for ordinary meetings of the Council”.

5.3.2 Council Constitution, Responsibility for Functions, Functions of Full Council – details that full council has responsibility for “Appointing representatives to outside bodies (including school governing bodies) where an urgent decision is required before the next scheduled General Functions Committee, unless that appointment has been delegated by the Council.

5.4 Risk Management

5.4.1 None specifically arising from this report.

5.5 Equalities and Diversity

5.5.1 None specifically arising from this report.

5.6 Consultation and Engagement

5.6.1 None specifically arising from this report.

6. BACKGROUND PAPERS

6.1 None.

APPENDIX A

Changes to calendar of meetings - 2017-18 Municipal Year

Committee	Date(s) of Meeting(s)	New date(s) of Meeting(s)
CELS	12 July 2017, 7pm	18 July 2017, 7pm

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Full Council: 25 July 2017

Administration Motion: Cllr Richard Cornelius

AGENDA ITEM 14.1

Ensuring the safety of Barnet's tower block residents

Council expresses shock and sadness at the tremendous loss of life at Grenfell Tower, North Kensington, on 14 June 2017. Members extend their condolences to all those who lost their homes, family, and friends in the fire, and recognise this was a catastrophe made all the more tragic for being avoidable.

Council notes the decision of the Housing Committee on 26 June 2017 to instruct Barnet Homes to carry out a review of fire safety measures in the Council's 28 high rise blocks and give consideration to the installation of sprinkler systems, improved fire and smoke alarm systems, and any other measures which may be required to meet best practice.

Council also welcomes the assurance given by Secretary of State for Communities and Local Government Sajid Javid to the chairman of the Local Government Association that 'funding will be made available to those councils that need to conduct work'. The £10 million set aside by the Housing Committee from the Housing Revenue Account was taken as an emergency measure, and concerns funds otherwise earmarked for capital projects and maintenance.

In light of the tragic events at Grenfell Tower, and the ongoing misery they have caused, Council calls on officers of the Council and Barnet Homes to complete their fire safety review with due care and attention at the earliest possible opportunity to provide reassurance to, and ensure the safety of, Barnet residents and to seek funding from Government.

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Proscribe Hezbollah in its entirety

Council expresses grave concern that the terrorist ideology of Hezbollah was allowed to be paraded yet again on the streets of London on Sunday 18th June at the annual 'Al Quds Day' march. The display of overtly racist, violence-provoking flags and banners and the delivery of blatantly antisemitic speeches with impunity is an affront to this country's democratic and tolerant way of life.

It is even more reprehensible at a time when innocent civilians of all faiths and none have been repeatedly targeted by, and fallen victim to, terrorist attacks on British soil this year. The Government has rightly declared its commitment to fighting this scourge in every conceivable way. However, there is presently one major string missing to this bow.

Council notes the unacceptable legal loophole whereby the so-called military wing of Hezbollah has been proscribed in the United Kingdom but the 'political wing' has not. The reality, however, is they are one and the same — a fact recognised by the Arab League, the Cooperation Council for the Arab States of the Gulf, Bahrain, Canada, the United States, Israel, France, and the Netherlands.

As Barnet is a multi-cultural borough committed to the values of community cohesion and an abhorrence of hate crime, we as members of its Council consider we have a duty to speak out on this issue, which has caused acute anxiety to numerous Barnet residents who are rightly proud of the borough's large and coexisting Muslim and Jewish communities. To ensure this harmony is not threatened, Council calls on the Home Secretary and the Mayor of London to use their respective powers and influence to:

1. Proscribe Hezbollah in its entirety as a terrorist organisation;
2. Ensure the police and other law enforcement agencies appropriately prosecute those who display Hezbollah flags and banners and use our streets to propagate racial hatred and incitement to violence.

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Full Council: 25 July 2017

Administration Motion: Cllr John Marshall

AGENDA ITEM 14.3

Failure of UN-sponsored talks in Cyprus

Council regrets the failure of the United Nations-sponsored intercommunal talks in Cyprus, caused by the intransigence of the Turkish Cypriots refusing to let Greek Cypriots return to Morphou, our twin town.

Morphou was home to a predominantly Greek Cypriot community before the Turkish invasion of Cyprus in 1974. There cannot, therefore, be a lasting settlement to the dispute on the island without a right of return for this displaced population — many of whom live in Barnet.

Council urges the borough's MPs Theresa Villiers, Mike Freer, and Matthew Offord to condemn this selfishness and urges foreign secretary Boris Johnson to raise these concerns with the Turkish government.

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Full Council: 25 July 2017

Opposition motion: Cllr Phil Cohen

AGENDA ITEM 14.4

NHS funding in North London

Council notes that unless further cuts are made or new funds are provided by the Government, there will be an estimated £811 million deficit across the NHS in North London in 2020/21.

Council also notes that North London Councils will face a budget pressure of £247 million for social care and public health by 2020/21 even when all additional funding announced by the Government has been taken into account.

Council further notes that the Government's thoroughly discredited and undemocratic 'Sustainability and Transformation Plan' process to integrate health and social care services across the five London boroughs of Barnet, Enfield, Camden, Haringey & Islington has ground to a halt.

Council believes LB Barnet's administration should stop kowtowing to their political masters in Westminster, show some leadership and oppose the Government's destruction of our NHS.

In the meantime, Council calls for LB Barnet to hold a public meeting so residents can be told how they will be affected by the next round of NHS cuts that will be required to plug the £811 million funding gap.

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Full Council: 25 July 2017

Opposition Motion: Cllr Ross Houston

AGENDA ITEM 14.5

Standards in the private rented sector

Council is appalled that 72 Conservative MPs, who are also private landlords, voted to oppose Labour's amendment to the Housing & Planning Bill earlier this year requiring private landlords to make their homes safe and "fit for human habitation".

Council is further appalled that two of these MPs were Mike Freer (Finchley & Golders Green) and Theresa Villiers (Chipping Barnet).

Council notes that since April 2015, local authorities are now required to obtain Secretary of State confirmation for any selective licensing scheme affecting more than 20% of private landlords in their area.

Council believes this is designed to prevent local authorities from introducing borough-wide licensing schemes that would help strengthen the working relationship between private landlords and councils, improve poor standards in the private rented sector, and ensure good landlords are supported.

Council believes that local authorities should have the freedom and flexibility to use all available tools and powers at their disposal to ensure that private rented homes are safe and "fit for human habitation".

Council therefore requests that the Leader of the Council and the Leader of the Opposition write to the Secretary of State calling for local authorities to either be allowed to introduce schemes or that Government introduce a national scheme.

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