

<p style="text-align: center;"><b><u>MEETING</u></b></p> <p style="text-align: center;"><b>CONSTITUTION, ETHICS AND PROBITY COMMITTEE</b></p>
<p style="text-align: center;"><b><u>DATE AND TIME</u></b></p> <p style="text-align: center;"><b>MONDAY 8<sup>TH</sup> JANUARY, 2018</b></p> <p style="text-align: center;"><b>AT 7.00 PM</b></p>
<p style="text-align: center;"><b><u>VENUE</u></b></p> <p style="text-align: center;"><b>HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ</b></p>

**TO: MEMBERS OF CONSTITUTION, ETHICS AND PROBITY COMMITTEE (Quorum 3)**

Chairman: Councillor John Marshall MA (Hons)  
Vice Chairman: Councillor Melvin Cohen LLB

**Councillors**

Richard Cornelius	Dr Devra Kay	Joan Scannell BEM
Ross Houston	Barry Rawlings	

**Substitute Members**

Anthony Finn	Sachin Rajput	Peter Zinkin
Ammar Naqvi	Alan Schneiderman	Claire Farrier

**You are requested to attend the above meeting for which an agenda is attached.**

**Andrew Charlwood – Head of Governance**

Governance Services contact:  
Andrew Charlwood 020 8359 2014 [andrew.charlwood@barnet.gov.uk](mailto:andrew.charlwood@barnet.gov.uk)

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is Wednesday 3<sup>rd</sup> January at 10AM. Requests must be submitted to Andrew Charlwood 020 8359 2014 [andrew.charlwood@barnet.gov.uk](mailto:andrew.charlwood@barnet.gov.uk)

**ASSURANCE GROUP**

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## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes of last meeting	5 - 18
2.	Absence of Members (If any)	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Report of the Monitoring Officer (If any)	
5.	Public Question and comments (If any)	
6.	Members' Items (If any)	
7.	Constitution Review	19 - 260
8.	Any other item(s) that the Chairman decides are urgent	

### FACILITIES FOR PEOPLE WITH DISABILITIES

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## **Decisions of the Constitution, Ethics and Probity Committee**

19 October 2017

AGENDA ITEM 1

Members Present:-

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

Councillor Richard Cornelius	Councillor Barry Rawlings
Councillor Ross Houston	Councillor Joan Scannell
Councillor Dr Devra Kay	

### **1. MINUTES OF LAST MEETING**

**RESOLVED** that the minutes of the meeting held on 29 June 2017 be approved as a correct record.

### **2. ABSENCE OF MEMBERS (IF ANY)**

None.

### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

### **4. REPORT OF THE MONITORING OFFICER (IF ANY)**

None.

### **5. PUBLIC QUESTION AND COMMENTS (IF ANY)**

The Committee noted the responses to the public comment and questions which had been published and circulated prior to the meeting.

### **6. MEMBERS' ITEMS (IF ANY)**

None.

### **7. CONSTITUTION REVIEW**

**RESOLVED** that 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 O.

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
1	Introduction and Summary	Pages 27 – 28	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Renamed Sections 1 and 2 and sections contained therein.</li> <li>3. Delete ‘citizens’ and replace with ‘residents’.</li> <li>4. Revised wording to highlight that Members have a duty to all residents, not just those living in their ward.</li> <li>5. Amended the ‘Decision Making Structure’ section to simplify the content.</li> <li>6. Delete section on ‘Urgent and Emergency Decisions’ as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>7. Delete section on ‘Area Committees and Forums’ as covered in revised Article 7 (Committees, Forums, Working Groups and Partnerships)</li> <li>8. Amended the ‘The Council’s Staff’ section to clarify that officers give advice to committees and Members.</li> <li>9. Amend section on ‘Residents Rights’ to refer to revised Article 3 (Residents and Public Participation)</li> <li>10. Delete section on ‘Explanatory Notes’ as unnecessary.</li> </ol>	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
			11. Delete diagram of committee structure appended as unnecessary.	
2	Article 1 – The Constitution	Pages 29 – 30	<ol style="list-style-type: none"> <li>1. In section 1.3 delete ‘citizens’ and replace with ‘residents’.</li> <li>2. Delete ‘address inequality’ as this is not a purpose of the constitution.</li> <li>3. Amend section 1.4 to state that the Council may amend the Constitution.</li> <li>4. Move Article 13 (Suspension, Interpretation and Publication of the Constitution) into a new section 1.5 of Article 1 and delete current Article 13.</li> </ol>	Agreed as per report
3	Article 2 – Members of the Council	Pages 31 – 34	<ol style="list-style-type: none"> <li>1. Amend section 2.1 to clarify the language.</li> <li>2. Amend section 2.3 (a) to clarify the language relating to the ‘Key roles’ of councillors including the deletion of the section which starts ‘Champion the causes...’ as this is perfunctory.</li> <li>3. Amend section 2.3 (b) to delete the section relating to scrutiny of performance as this is covered in the preceding bullet point (relating to participating in decision-making).</li> <li>4. In section 2.3 (b) delete ‘authority’ and replace with ‘council’.</li> <li>5. Delete duplicated text in Section 2.3 (b).</li> <li>6. Amend the title of section 2.3 (c) to ‘Access to Information as the</li> </ol>	<p>Agreed as per report subject to:</p> <ol style="list-style-type: none"> <li>1. The addition in section 2.3 (d) of the Lead Member for Children’s Services;</li> <li>2. The deletion of the wording ‘...other than planning committees...’ from the first paragraph in section 2.3 (e); and</li> <li>3. The addition of the following paragraph in section 2.3 (e): “The Chairman or three Members of an Area Planning</li> </ol>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>sections covers Members rights of access to council information.</p> <p>7. In section 2.3 (c) delete 'Councillors' and replace with 'Members'</p> <p>8. In section 2.3 (c) add a requirement for officers to keep Ward Members informed of matters affecting their Ward.</p> <p>9. In section 2.3 (d) delete 'Councillors' and replace with 'Members' and add 'Vice-Chairman'</p> <p>10. Move content relating to referrals from Responsibility for Functions (proposed to be deleted) and create a new section 2.4 (d). Revise section 2.4 (d) to simplify the rules relating to referrals between committees. <i>Note:</i> sections copied from Responsibility for Functions have been copied and retained and deleted tracked changes for reference.</p> <p>11. Add wording in section 2.1 (e) to restrict urgent decisions from being referred and to clarify that the referral must be made before the decision is taken</p> <p>12. Move content from Meetings Procedure Rules into Article 2 and add a new section 2.5 (f). Revise wording to simplify the rules relating to Members Items'. Sections copied from Responsibility for</p>	<p>Committee may refer an item to the Planning Committee for determination by indicating before the vote is taken that they wish to refer the item and providing reasons for the referral."</p>



No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>Functions have been copied and tracked change deleted for reference.</p> <p>13. Move content relating to Members rights to address planning committees from the Planning Committee Procedure Rules (currently section 7 of Meeting Procedure Rules). Revise wording to delete unnecessary content and duplication.</p> <p>14. Move content relating to councillor's rights to attend and speak at committees or sub-committees when they are not a member (currently section 9 of Meeting Procedure Rules). Retain content un-amended. Add new wording to confirm Members rights to remain in the meeting room when committees that they are not a member of consider exempt business</p>	
4	Article 3 – Residents and Public Participation	Page 35 – 41	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language.</li> <li>2. Delete references to 'citizens' and replace with 'residents'.</li> <li>3. Delete section 3.1 (a) (i) relating to voting and petitions</li> <li>4. Amend section 3.1 to refer to clarify that only residents can petition the council.</li> <li>5. Move section 2 (Public Questions) of the Public</li> </ol>	Agreed as per report subject to the inclusion of the additional wording in section 3.6: "Petitions which have been submitted in response to a consultation process initiated by a specific committee should be reported back to that committee."

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>Participation and Engagement Rules into Article 3. Create new section 3.2 titled 'Questions to a committee'.</p> <p>6. Move section 3 (Public Comments) of the Public Participation and Engagement Rules into Article 3.</p> <p>7. Add a new section 3.4 titled 'Public Questions and Comments – Procedure at Committee' to clarify the order in which public comments and supplementary questions will be managed at a committee meeting.</p> <p>8. Amend section 3.5 to refer to 'issues' for residents' forums as this is consistent with the terminology currently used by Members and officers in relation to matters considered at the forums.</p> <p>9. Amend section 3.5 to clarify the meaning of the Six-Month Rule in the context of residents' forums.</p> <p>10. Amend the wording in section 3.6 relating to petitions to clarify that certain petitions will be treated as 'letters of representation' and will be outside of the normal petition procedures.</p> <p>11. Amend section 3.7 to clarify and simplify the rules relating to speaking at planning committees including to reflect that the</p>	

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			Governance Service will take over management of the registering speakers.	
5	Article 4 – The Full Council	Pages 43 – 44	<ol style="list-style-type: none"> <li>1. Revised text throughout the Article to remove unnecessary wording and clarify language Amend the wording in section 4.1 to simplify the language.</li> <li>2. Move the functions of Full Council listed in section 1 of Responsibility for Functions into Article 4.</li> <li>3. Add a new responsibility for Full Council to approve Member and officers appointments to outside bodies and external organisations on the recommendation of the Group Secretaries or Chief Executive</li> <li>4. Delete the definition of the policy framework in section 2 as the explanation is not required.</li> <li>5. Delete section 4.4 (Responsibility for Functions) as this simply refers to other sections of the constitution.</li> </ol>	Agreed as per report
6	Article 5 – The Mayor and Chairing the Council	Page 45	<ol style="list-style-type: none"> <li>1. Amend the wording in section 5.1 to clarify that the Deputy Mayor should also be appointed by Council and to clarify their term of office.</li> <li>2. Add a new section 5.2 to ensure that the election of the Mayor and Deputy Mayor is the first item of business transacted at the annual council meeting.</li> </ol>	<p>Agreed as per report subject to:</p> <ol style="list-style-type: none"> <li>1. The addition of the word ‘dies’ in the second sentence of paragraph 5.1; and</li> <li>2. Amend section 5.2 as follows: “The election of the Mayor and</li> </ol>

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"> <li>3. In section 5.3 delete the provision that states that the Mayor will appoint a deputy.</li> <li>4. Add wording to section 5.3 to provide that the Mayor may write letters of condolence and congratulation on behalf of the Council.</li> </ol>	<b><i>the nomination and ratification of the Deputy Mayor shall be the first business transacted at the annual meeting of the council."</i></b>
7	Article 6 – The Leader	Page 47	<ol style="list-style-type: none"> <li>1. Amend section 6.1 to clarify wording.</li> </ol>	Agreed as per report
8	Article 7 – Committees, Forums, Working Groups and Partnerships		<ol style="list-style-type: none"> <li>1. Delete 'Sub-Committees', 'Area Committees', 'Forums' and 'the Local Strategic' from the Article title</li> <li>2. Revise the wording in section 7.1 to make more succinct.</li> <li>3. Delete references to 'Panels' and replace with 'working groups'.</li> <li>4. Delete section on 'Additional Sub-Committees and Panels'.</li> <li>5. Amend section 7.2 to refer to delete references to parent committees making appointments to sub-committees.</li> <li>6. Delete section on Area Committee and Forums as these are included in the terms of reference of committees detailed later in the Article.</li> <li>7. Delete unnecessary text from section 7.4 on the Local Strategic Partnership.</li> <li>8. Review and shortening of terms of reference of all committees to improve clarity (including revisions</li> </ol>	Agreed as per report, subject to the reinstatement of the current terms of reference of the General Functions Committee

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
			<p>to the terms of reference and remit of Area Committees).</p> <p>9. Add new responsibilities to the terms of reference of the Planning Committee and Area Planning Committees in relation to a Brownfield Land Register.</p> <p>10. Revise the membership of the Local Pension Board to increase from 5 to 7.</p> <p>11. Include the following committee procedures in this Article moved from Meetings Procedure Rules (proposed to be deleted): Substitute Members – Rules; Quorum – Rules; Chairmen of Meetings; Minutes; Urgent Business</p> <p>12. Amend Urgency provisions to remove the ability for the Chief Executive to take a decision normally reserved for a committee.</p> <p>13. Delete text relating to the conclusion time for Residents Forums as these now take place at 7.00pm and no longer have an Area Committee which follows immediately after.</p>	
9	Article 8 – Joint Arrangements	Page 69	<p>1. Delete 'References' to legislation as these are not required.</p> <p>2. Delete unnecessary text relating to delegations to joint committees being listed in Responsibility for Functions as this is no longer required.</p>	<p>Agreed as per report subject to paragraph 8.2 being amended as follows: "Access to Information legislation will apply to Members of joint</p>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
				committees.”
10	Article 9 – Chief Officers	Pages 71 – 75	<ol style="list-style-type: none"> <li>1. Add wording to 9.01 (a) to clarify that the Chief Executive as Head of Paid Service appoints all staff except Chief Officers.</li> <li>2. Update the list of Chief Officers to reflect the senior management structure approved by the General Functions Committee implemented in June 2017.</li> <li>3. Updated wording relating to the powers delegated to officers to simplify the language and clarifies financial limits to delegations.</li> <li>4. Updated list of Statutory Officers.</li> <li>5. Delete the section titled ‘Other Chief Officers’ as these are listed in the ‘Chief Officers’ section above.</li> <li>6. Delete references in 9.4 (b) as these are no longer required.</li> <li>7. Amend 9.3 (b) delete ‘Chief Operating Officer’ and replace with ‘Assistant Chief Executive’ to reflect the new senior officer structure.</li> <li>8. Delete sections from section 9.3 relating to the functions of the Monitoring Officer relating to ‘contributing to corporate management’ and ‘restrictions on posts’ as these are covered elsewhere or are statutory provisions.</li> <li>9. Delete references at the</li> </ol>	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
			<p>end of section 9.3 as these are no longer required.</p> <p>10. Delete sections from section 9.4 relating to the functions of the Chief Finance Officer relating to 'contributing to corporate management' as this are covered elsewhere.</p> <p>11. Delete section 9.8 on other chief officers as this is no longer required.</p>	
11	Article 10 – Decision Making	Pages 77 – 82	<ol style="list-style-type: none"> <li>1. Delete section on 'Responsibility for decision making' as no longer required.</li> <li>2. Amend section 10.2 to refer to decisions taken by Full Council.</li> <li>3. Amend section 10.3 to refer to decision-making by committees and revise the wording to improve clarity. Include new text to state that: i) all committee reports will be in the name of the Chairmen apart from Planning and Licensing Committees; and ii) that Chairmen will clear all committee reports apart from Planning and Licensing Committees.</li> <li>4. Add a new section 10.4 (Decision Making by Chairmen of Theme Committees Jointly with Chief Officers) to give a new power to Chairmen of theme committee to make decisions jointly with chief officers with a value of between £165K and £500K.</li> </ol>	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
			5. Amend section 10.5 to clarify the circumstances where a written record report is required. 6. Insert Table A detailing authorisation limits in relation to land and property transactions previously included in the Management of Assets, Land and Property Rules.	
12	Article 11 – Finance, Contracts and Legal Matters	Pages 83 – 84	1. Delete ‘References’ as these are no longer required. 2. Amend sections 11.3 and 11.4 to delete ‘Monitoring Officer’ and replace with ‘Assistant Chief Executive’ as the senior responsible officer. 3. Amend section 11.4 on authentication of documents to improve clarity and confirm the financial threshold for documents which require the Seal to be attested. 4. Delete wording in section 11.4 relating to authorised officers as this is covered in section 11.5. 5. Minor amendments to 11.5 to include the Assistant Chief Executive as they are a senior responsible officer. 6. Delete text relating to the ‘Facsimiles of Common Seal’ as no longer required. 7. Delete section on ‘Disposal of land and real property’ as no longer required.	Agreed as per report



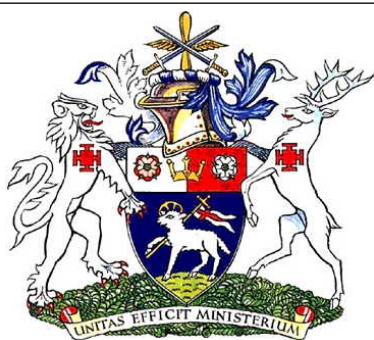
No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
13	Article 12 – Review and Revision of the Constitution	Pages 85 – 86	1. Amend text to clarify some of the wording.	Agreed as per report
14	Full Council Procedure Rules	Pages 87 – 108	<ol style="list-style-type: none"> <li>1. Amend Part 4, Business for Debate, 15. to remove Motions for the Adjournment and replace with a procedure for debating more than two motions if time permits at the end of the meeting.</li> <li>2. Amendments to clarify the wording in sections 6 (Variations), 7 (Suspension of Rules), 9 (General Provisions for Motions and Amendments).</li> <li>3. Deletion of sections 13 (Motions which may be moved during debate and closure motions) and 14 (Division and Voting) which are no longer required.</li> <li>4. Clarification of wording in section 22.1 to clarify that Motions must relate to Barnet specific issues.</li> <li>5. Revisions to the wording in sections 23.5 and 23.6 to shorten and clarify the language.</li> <li>6. Delete section 26 relating to Procedure for Policy and Resources Committee Budget Report as not required.</li> </ol>	<p>Agreed as per report subject to:</p> <ol style="list-style-type: none"> <li>1. Amend section 2.1, 2. to include the Deputy Mayor</li> <li>2. Amendment of section 5.2 to state: “If the Mayor is absent from a meeting of the Council then the Deputy Mayor will preside.”</li> <li>3. Delete the following wording from paragraph 5.3: “...or if the Deputy Mayor being present is not chosen...” Amend section 6 as follows: “The order of any business may be varied by the Mayor with the consent of Council.”</li> <li>4. Retain section 11 (Division and Voting);</li> <li>5. Delete the following wording from</li> </ol>

No.	Section	Reference (papers submitted to Committee)	Changes contained in the report to Constitution, Ethics and Probity Committee	Recommendation to Full Council
				<p>section 17.3: “(Including Overview and Scrutiny Committees)”</p> <p>6. Change the wording in section 17.11 from ‘particularly’ to ‘substantially’</p>

In considering the Full Council Procedure Rules, Councillor Rawlings moved that section 10.3 (which stated “After the deadline referred to at 10.1 above, a Member may only move an amendment to a Motion in their name orally from the floor”), which was proposed for deletion, be retained. Councillor Houston seconded the motion. Upon being put to the vote, the proposal was lost. Votes were recorded as follows:

In Favour	3
Against	4
Abstentions	0

The meeting finished at 8.03 pm



## Constitution, Ethics and Probity Committee

8 January 2018

<b>Title</b>	<b>Constitution Review</b>
<b>Report of</b>	Monitoring Officer Head of Governance
<b>Wards</b>	N/A
<b>Status</b>	Public
<b>Enclosures</b>	Appendix A – Members Planning Code Appendix B – Members Planning Code (Tracked) Appendix C – Members Licensing Code Appendix D – Members Licensing Code (Tracked) Appendix E – Access to Information Rules Appendix F – Access to Information Rules (Tracked) Appendix G – Code of Conduct for Member-Officer Relations Appendix H – Code of Conduct for Member-Officer Relations (Tracked) Appendix I – Code of Corporate Governance (Revised) Appendix J – Code of Corporate Governance (Current) Appendix K – HR Regulations Appendix L – HR Regulations (Tracked) Appendix M – Financial Regulations Appendix N – Financial Regulations (Tracked) Appendix O – Contract Procedure Rules Appendix P – Contract Procedure Rules (Tracked)
<b>Officer Contact Details</b>	Andrew Charlwood, Head of Governance, 020 8359 2014, <a href="mailto:andrew.charlwood@barnet.gov.uk">andrew.charlwood@barnet.gov.uk</a>
<b>Summary</b>	
<p>The Monitoring Officer has undertaken a review of the Constitution with the aim of to simplify it in plain English and in a way which avoids duplication and unnecessary complexity and detail. A special meeting of the Committee took place on 19 October 2017 and considered revised Articles. These were approved and subsequently adopted by Council on 31 October 2017. This report presents the revised Section 2 supporting documents for the committee to consider.</p>	

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

## 1. WHY THIS REPORT IS NEEDED

### Constitution Review

- 1.1 As reported to the Committee in June and October, the Monitoring Officer has undertaken a comprehensive review of the Constitution to simplify it and re-draft in plain English. The revised Articles were considered by the Committee and reported to Full Council in October.
- 1.2 Following the adoption of the revised Articles, the following part 2 supporting documents have now been revised and are enclosed for consideration:
  - Members Planning Code
  - Members Licensing Code
  - Access to Information Rules
  - Code of Conduct for Member-Officer Relations
  - Code of Corporate Governance
  - HR Regulations
  - Financial Regulations
  - Contract Procedure Rules
- 1.3 In relation to the Financial Regulations and Contract Procedure Rules, officers from the service areas have provided a summary of the changes as set out in the table below. In relation to the other sections, the changes are as per the tracked changes documents enclosed as appendices.

## Financial Regulations

No.	Section	Reference	Issue Identified	Changes Made
1	Introduction		Introduction and Status of Financial Regulations needed to be merged and updated.	1. Delete reference to 'Status of Financial Regulations' section 2. Additional paragraphs added into Introduction to outline the purpose of the Financial Regulations 3. Specific reference to Section 114 of Local Government Finance Act 1988 added 4. Deleted further references throughout the document to Section 151 officer
	Responsibilities		Needs to be updated due to increased Contractor and Partner working also needed to update due to recent Constitution update	5. Responsibilities section re-written 6. Reference to contractors and partners added as the Council's Financial Regulations apply to everyone acting on behalf of the authority 7. Additional wording added regarding compliance with the Financial Regulations
	Financial Management		Section heading needs amending to include Financial Planning  Clarity on the virement process and Central Contingency  Updates needed on legislation	8. Amend heading to 'Financial Planning and Financial Management' 9. Paragraph added discussing the capital programme and budget 10. Clarity added on the virement process 11. Values added to Central Contingency paragraph 12. Use of reserves statement added 13. 'Authorisation of Non-Budgeted Expenditure' paragraph to allow for Emergency Payments 14. Closing of Accounts amended to include reference to the Pension Fund Accounts 15. Statement of Accounts amended to include reference to

No.	Section	Reference	Issue Identified	Changes Made
	Financial Administration		Section heading needs amending to include Systems and Procedures Additional section added to the Financial Regulations to cover Risk Management and Control of Resources	<p>International Standard on Auditing 260</p> <p>16. Treasury Management Framework legislation updated</p> <p>17. Pension Fund Management legislation updated</p> <p>18. Internal Audit, Corporate Anti-Fraud Team (CAFT) and Risk Management removed and added to new section within Financial Regulations</p> <p>19. Additional paragraph added under 'Income' stating that the Council will charge for all services, where allowable, and have charging policies in place</p> <p>20. Additional paragraph added under Invoicing and Debt Recovery regarding regular review of outstanding debts and credit note procedures</p> <p>21. Additional paragraph added under 'Investments, Borrowing, Capital Financing &amp; Trust Accounts' stating the role of the Chief Finance officer with regards to investment</p> <p>22. Payments in Advance section updated to include notification of payments of £250,000 or over being made at Performance and Contract Management Committee</p> <p>23. Reference to the Director of HR being responsible for all payments to staff and for allowances to elected members added.</p> <p>24. 'Taxation' section added</p> <p>25. Added new paragraph regarding 'Internal Controls' and the requirements</p>

No.	Section	Reference	Issue Identified	Changes Made
	NEW Risk Management and Control of Resources		Risk Management and Control of Resources has been added	26. 'Internal Audit' section has been updated for legislation changes and further summarised 27. 'Corporate Anti-Fraud Team' section has been summarised 28. 'Risk Management' section has been amended to make reference to the Audit Committee reviewing the Risk Policy Statement 29. 'External Audit' section added to lay out the requirements of the External Auditor  30. References to trading accounts and accounting principles added
	NEW Trading Accounts		Changes in the way that the Council is developing to a commissioning model need to be reflected therefore this section has been added	31. Partnership working and the Council's involvement added 32. Conduct and approvals of such partnerships have been added
	NEW External Arrangements		Changes in the way that the Council enters into partnerships have been added	33. Partnership Budgets added 34. 'External Funding' paragraph added 35. 'Work for Third Parties' added 36. 'Alternative Delivery Models' added covering Local Authority Trading Companies, Joint Ventures 37. 'Transparency' added

## Contract Procedure Rules

No.	Section	Reference	Issue Identified	Changes Made
1	Contract Procedure Rules	See changes made	The Contract Procedure Rules have been reviewed and a number of amendments are proposed to remove unnecessary operational detail and complexity.	<ol style="list-style-type: none"> <li>1. Delete 'Introduction' section.</li> <li>2. Amend 'Application' section to incorporate information removed from deleted 'Information Governance' and 'Contract Monitoring' sections making it clear that detail is within the Procurement Toolkit which must be adhered to.</li> <li>3. Delete 'Regulation and Legislation' and 'Roles and Responsibilities' sections, moving detail to Procurement Toolkit and some to 'Application' section.</li> <li>4. Amend proposed 2.1, 3.5 and 4.1 to clarify application of relevant legislation.</li> <li>5. Amend phrasing in 'Procurement method' section to make clearer.</li> <li>6. Amend 'Single Tender Action' section to make clear that procurement advice should be sought and to delete some detail.</li> <li>7. Delete 'Information Governance' section and move detail to Procurement Toolkit (see point 2 above).</li> <li>8. Amend 'Acceptance' and 'Contracts Signing and Sealing' sections to streamline and remove reference to Monitoring Officer.</li> <li>9. Shorten 'Contract Monitoring' section and move detail to Procurement Toolkit (see point 2 above).</li> <li>10. Amend 'Extensions and Variations' and 'Waivers' sections to clarify and simplify in line with legislation.</li> <li>11. Update number references throughout. Reference throughout to Article 10 of the Constitution which now contains threshold information.</li> </ol>



## **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 The Committee could retain the current Constitution un-amended. This is not recommended as the current structure and format of the Constitution requires review and updating to ensure that it is easy to understand and interpret.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 30 January 2018 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 The currently adopted Constitution can be accessed here:  
<http://barnet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13581&path=0>
- 6.2 Full Council, 31 October 2017, Report of the Constitution, Ethics and Probity Committee, Constitution Review:  
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MIId=9159&Ver=4>

# **Members' Planning Code**

## **1 PURPOSE OF THIS CODE**

- 1.1 This Planning Code has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct expected of the Council in the exercise of its planning powers.
- 1.2 Members should abide by both this Planning Code and also the Code of Conduct for Members.
- 1.3 The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds in an open and transparent manner. The Planning Code is also designed to assist Members and Officers in dealing with approaches from property owners, developers and residents.
- 1.4 If Members have any doubts about the application of this Planning Code they should seek early advice preferably well before any meeting takes place from the Monitoring Officer.

## **2 CONTEXT**

- 2.1 The planning process has the potential to deliver sustainable planned growth aspirations for the borough and planning decisions are often based on balancing competing interests (social, economic and environmental). Decision makers must make decisions in accordance with Local Plan policies unless material planning considerations indicate otherwise regardless of personal or political allegiances.
- 2.2 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public engagement as part of the decision-making process. It is important that the decision-making process is open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. Opposing views are often strongly held by those involved. Whilst Councillors who sit on planning committees must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. The expectation is that members who sit on planning committees will be fair and reasonable when making decisions.
- 2.4 The aim of this Code is therefore to ensure that the Council's processes are sound and that decisions are lawful, consistent and procedurally correct.

### ***General roles of Councillors and officers***

- 2.5 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole through the Chief Executive, whilst Members are responsible to the electorate.
- 2.6 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- 2.7 Planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.
- 2.8 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

### **3 MEMBER INTERESTS**

- 3.1 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Planning Committee he or she should raise this with the Monitoring Officer as soon as possible.
- 3.2 Where a Member has a pecuniary interest relating to an item under discussion, the Councillor may not participate in any discussion of the matter at the meeting or participate in any vote on the matter. There is no obligation for that Councillor to withdraw from the Chamber although this is advisable so that it is transparently clear that the Member concerned has not taken part in the determination of this particular item. This also means that a Councillor with a pecuniary interest is precluded from making representations orally to the committee, either as a Councillor or in a private capacity, and precluded from making representations on behalf of a party to the hearing.
- 3.3 A Councillor with a pecuniary interest can still present their views to the committee through other means:
- make written Representations to officers; the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations;
  - arrange for another Member to represent the views of the Councillor's constituents.

- 3.4 Conflicts of Interest: all Members must be seen as impartial; this may be a particular issue for Members who have in-borough property related business activity and who are more likely than others to be uncomfortable in the role of planning committee member by reason of the combined pressures of their private local business interests, the Ward Member advocate role, and the constraints of the planning system. Members with a property-related background may also give rise to a perception by residents that such Members are more likely to be in favour of the development even where they are determining cases completely impartially.
- 3.5 In order to minimise the risk to the Council and the Member concerned s/he should discuss any conflict of interest with the Monitoring Officer if they are nominated to a planning committee.

#### **4 PREDISPOSITION, PREDETERMINATION AND BIAS**

- 4.1 Planning Committee Members need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a legal requirement that the decision maker must respect.
- 4.2 A distinction needs to be made between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach and likely to leave the committee’s decision susceptible to legal challenge by Judicial Review.
- 4.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.
- 4.4 The law provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 4.5 For example, a Councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but still has an open mind.

- 4.6 A Planning Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined the matter or have given that impression, they should avoid being part of the decision-making body for that application.
- 4.7 Participation as a Member in a Planning Committee where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.
- 4.8 A Member should stand down from any agenda item where they have a relevant and current or recent private business or personal relationship and association with any applicant or applicant's representative. If in doubt about this Members should speak with the Monitoring Officer or his/her representative before any decision is made.

## **5 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS**

### ***Applications submitted by the Council***

- 5.1 Proposals for the Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.
- 5.2 Certain Councillors may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer.  
Applications submitted by Councillors or officers
- 5.3 It is perfectly legitimate for planning applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 5.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing and/or determination. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing and/or its determination.
- 5.5 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or an elected Member or a partner/spouse of a Member or Officer of the Council. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)
- Officers of the Local Planning Authority.

5.6 The term “Officers of the Local Planning Authority” means officers within the Council who are closely involved in the day-to-day work of the Council’s planning function and include all external persons such as lawyers, contractors and advisors who work for the Local planning Authority.

## **6 LOBBYING**

6.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Planning Committee.

6.2 As the Nolan Committee’s 1997 report stated: “It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves”.

6.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

6.4 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee’s decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

6.5 Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence in respect of an application) to the Planning Service as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;

- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality and inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying.

## **7 PRE-APPLICATION DISCUSSIONS**

- 7.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. If potential applicants seek to meet Planning Committee Members then any such pre-application meeting should be organised through officers.

## **8 POST-SUBMISSION DISCUSSIONS**

- 8.1 A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 8.2 In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 8.3 If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Planning Committee Member should report to the Chief Planning Officer any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.
- 8.4 Planning Committee Members should not attend post-submission meetings that are not organised through officers.
- 8.5 Councillors should report any substantive discussion with applicants to the chief planning officer.



## **9 SITE VISITS**

- 9.1 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Discussions on site visits shall be confined to the application as currently submitted.
- 9.2 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- 9.3 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be to brief Members on the planning application relevant to the visit.
- 9.4 Officers shall ensure, where practical, that applicants and Members are invited to attend the visit and that they are able to view all key parts within or adjoining the site.
- 9.5 Whilst on site visits, Members of Planning Committee should not express an opinion on the planning application or its merits, and should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination.
- 9.6 Members of the planning committee who were not present at a pre-arranged site visit should not seek to defer consideration of the planning application.
- 9.7 A site visit should not be arranged on the basis of exposing Members of the Planning Committee to local opinion but should be to explore the planning issues in the application.

## **10. PLANNING APPEALS**

- 10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.
- 10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the chief planning officers to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council, brings the Council into disrepute or puts the decision made at risk of challenge.

- 10.3 Where the Planning Committee or an Area Planning Committee refuses an application against the officer's recommendation one Member of the Committee should attend any appeal on behalf of the Council and other Members may attend as observers if they so wish. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision with such assistance from the nominated Committee Member as may be required. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.
- 10.4 Where the decision of planning committee members is contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

## **11 PLANNING ENFORCEMENT**

- 11.1 Councillors should bring to the attention of the Planning Service suspected breaches of planning law so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the chief planning officer.

## **12 COUNCILLOR TRAINING**

- 12.1 All new Members, newly appointed Chairmen and returning Members of the Council's Planning Committees must attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting. Other Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

## **13 MEETINGS OF THE PLANNING COMMITTEE**

- 13.1 No material revision to any planning application submitted by the applicant which might lead to a change in the officer recommendation shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the planning department and any necessary public consultation has taken place.
- 13.2 If the Planning Committee seeks to make a decision contrary to the planning officer's recommendation an agreed procedure will be followed. The Courts have expressed the view that the planning reasons for the contrary decision should be clearly recorded which means that members may be required to openly state in the meeting as to how and why they reached a contrary view.

13.3 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item.

13.4 The Chairman should ensure:

- Members' comments at Committee only relate to the planning merits of the application before them;
- reference at Committee to non-planning issues by the public / Members are discouraged;
- the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined;
- Residents and applicants understand that the late submission of evidence could lead to the deferral of the meeting and may not be permitted without agreement of all parties.

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## **Members' Planning Code of Good Practice**

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- 2—Role and conduct of Councillors and officers
- 3—Interests: Registration and Disclosure
- 4—Predisposition, predetermination and bias
- 5—Applications submitted by the Council, Councillors or officers
- 6—Lobbying of and by Councillors
- 7—Pre-application discussions
- 8—Post-submission discussions
- 9—Planning appeals
- 10—Planning enforcement
- 11—Councillor training
- 12—Amendments/Variation

### **Introduction**

- 1.1—This Code has been prepared using advice in the Local Government Association's revised guidance note on good planning practice for Members and officers dealing with planning matters—*Probity in Planning for Councillors and Officers* (November 2013).

### **Key purpose of planning**

- 1.2—Planning has a positive and proactive role to play at the heart of local government in the London Borough of Barnet. It helps the Council to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs of the residents of Barnet to achieve sustainable development.
- 1.3—The planning system works best when Councillors and officers involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

## **1 PURPOSE OF THIS CODE**

- 1.1 This Planning Code has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct expected of adopted by the Council in the exercise of its planning powers.
- 1.2 The Planning Code is in addition to Members should abide by both this Planning Code and also the Barnet's Code of Conduct for Members.
- 1.3 The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds and, are applied in an consistent and open and transparent manner. and that Members and Officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and Officers in dealing with approaches from property owners, developers and residents..

1.4 If Members ~~u~~ have any doubts about the application of this Planning Code ~~they~~you should seek early advice preferably well before any meeting takes place from the Monitoring Officer.

## **2 CONTEXT**

~~4.42.1~~ The planning process has the potential to deliver sustainable planned growth aspirations for the borough and ~~P~~planning decisions are often based on balancing competing interests (social, economic and environmental). ~~and making an informed judgement against~~in the context of a local and national planning policy framework. ~~Decision makers need to~~must make decisions ~~fair and open in accordance with Local Plan policies unless material planning considerations indicate otherwise~~ decisions that are in the wider public interest on what can be controversial proposals regardless of personal or political allegiances.

~~1.5~~ ~~In today's place-shaping context, early Councillor engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the places that communities need. This guidance is intended to reinforce Councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.~~

~~4.62.2~~ Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public ~~consultation~~opinion before taking ~~engagement as part of the decisions-making process and the legal nature of the development~~local plan and planning decision notices. ~~Nevertheless, it~~ is important that the decision-making process is open and transparent.

~~4.72.3~~ One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. ~~In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved. Whilst Councillors~~ who sit on planning committees ~~must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. The expectation is that members who sit on planning committees will be fair and reasonable when making decisions. Barnet Council recognises the importance of making~~ planning decisions affecting these interests in an open and impartial way, with sound judgement and for justifiable reasons.

~~4.82.4~~ The aim of this Code is therefore to ensure that ~~the~~ Council's processes are sound ~~will make sure that those participating in the decision are unbiased and that the decisions are itself is~~ lawful, ~~rational~~consistent and procedurally correct.

## **When the Code applies**

- ~~1.9— This code applies to Councillors at all times when they are involved in the planning process. This includes, where applicable, when part of decision making meetings of the Council, in exercising the functions of the planning authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications. If you have any doubts about the application of this Code to your own circumstances you should seek advice early, and preferably well before any meeting takes place, from the Monitoring Officer.~~
- ~~1.10— In this Code when the term “Councillor” or “Member” is used it means that the advice is applicable to all Members of the Council. The term “Planning Committee Member” means a Member or a substitute Member of any of the Council’s Planning Committees.~~

## **Relationship to the Members’ Code of Conduct**

~~Councillors are reminded that this Code is designed primarily for Members of the Council’s Planning Committees and Councillors who, for whatever reason, find themselves involved in the planning process. Whilst this Code interprets the Members’ Code of Conduct with respect to planning matters it is subordinate to the Members’ Code of Conduct and, in the event of any inconsistencies arising between this Code and the Members’ Code of Conduct, the Members’ Code of Conduct shall prevail.~~

## **General roles of Councillors and officers**

- ~~1.11~~2.5 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole through the Chief Executive, whilst Members are responsible to the electorate.
- ~~1.12— Officers are not appointed to serve any political group and therefore advise all Members and the Council. Officers carry out the daily functions of the Council’s business in accordance with Council or Committee decisions or under powers delegated to them pursuant to the Constitution. Officers are governed by the Officers Code of Conduct contained in the Constitution. In addition, planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.~~
- ~~1.13— The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by Councillors and to adopt a code of conduct. The Members Code of Conduct in the Constitution is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It embraces the standards central to the preservation of an ethical approach to council business, including the need to register and disclose interests, as well as appropriate relationships with other Councillors, staff and the public. The Council’s standing orders set down rules which govern the conduct of Council business.~~

### ***Relationship between Councillors and officers***

~~1.14 Mutual trust, respect and understanding between Councillors and officers are the keys to achieving effective local government. A successful relationship can only be based upon mutual trust and understanding of each other's positions. This relationship, and the trust that underpins it, must never be abused or compromised.~~

~~1.15~~ 2.6 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

2.7 Planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.

~~1.16~~ 2.8 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

### **23 MEMBER INTERESTS: REGISTRATION AND DISCLOSURE**

~~2.1 A Councillor should refer to the Members' Code of Conduct for assistance in identifying Disclosable Pecuniary Interests or any Other Interests or seek advice from the Monitoring Officer prior to attending a meeting. A failure to properly register a Disclosable Pecuniary Interest or to participate in discussion or voting in a meeting on a matter in which a Councillor or co-opted Member has a Disclosable Pecuniary Interest, are criminal offences. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.~~

~~2.2 The provisions of the 2011 Act seek to separate interests arising from the personal and private interests of the Councillor from those arising from the Councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.~~

### ***Registration of interests***

~~2.3 A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.~~



## **Disclosure of interests**

3.1 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Planning Committee he or she should raise this with the Monitoring Officer as soon as possible.

~~2.4 If a Councillor has a Non-Disclosable Pecuniary Interest or a Non-Pecuniary Interest, he or she should disclose that interest orally at the committee meeting when it relates to an item under discussion, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.~~

3.2 Where a Member has a **Disclosable** pecuniary interest relating to an item under discussion, the Councillor may not participate ~~(or participate further)~~ in any discussion of the matter at the meeting or participate in any vote ~~(or further vote)~~ on the matter. There is no obligation for that Councillor to withdraw from the Chamber although this is advisable so that it is transparently clear that the Member concerned has not taken part in the determination of this particular item. This also means that a Councillor with a **Disclosable** pecuniary interest is precluded from making representations orally to the committee, either as a Councillor or in a private capacity, and precluded ~~or~~ from making representations on behalf of a party to the hearing.

3.3 A Councillor with a **Disclosable** pecuniary interest can still present their views to the committee through other means: ~~For example, the Member can:~~

- make written Representations to officers; in their private capacity in accordance with the Committee Consideration Criteria as set out in the Planning Committee Procedure Rules — the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations; ~~such written representations should be addressed to officers rather than other Members of the Authority;~~
- ~~use a professional representative to make a representation on the Councillor's behalf in circumstances where the Councillor's planning application is under consideration; and~~
- arrange for another Member ~~of the Authority (eg a fellow ward councillor)~~ to represent the views of the Councillor's constituents ~~on matters in which the Councillor has a Disclosable Pecuniary interest.~~

-3.4 Conflicts of Interest: all Members need to be seen as impartial; quite often varied professions are present at planning committees — this may be a particular issue for Members who have in-borough property related business activity — for example estate agents, property developers or local landowner and who are s. These Members in general are more likely than others to be uncomfortable in the role of planning committee member by reason of the combined pressures of their private local business interests, the Ward Member advocate role, and the constraints of the planning system. Members with a property-related background may also give rise to a perception by residents that such Members are more likely to be in favour of the development even where they are determining cases completely impartially.

3.5 In order to minimise the risk to the Council and the Member concerned s/he should discuss any conflict of interest ~~their position~~ with the Monitoring Officer if they are nominated to a planning committee.

~~2.5 Although a Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Councillor from the committee, in certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business.~~

## **34 4 PREDISPOSITION, PREDETERMINATION AND BIAS**

~~3.14.1 In addition to being aware and taking appropriate action in relation to interests,~~ Planning Committee Members need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a ~~legal requirement~~principle of natural justice that the decision maker must respect~~is expected to adhere to~~.

~~3.24.2 The courts have sought to distinguish~~A distinction needs to be made between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach and likely to leave the committee’s decision susceptible to legal challenge by Judicial Review.

~~3.34.3~~ Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.

~~3.44.4 The law~~ Section 25 of the 2011 Act also provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.

~~3.54.5~~ For example, a Councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but still has an open mind.

~~This distinction is particularly important in the context of the Council's practice of facilitating presentations to Planning Committee by developers of schemes at the pre-application stage. After these presentations, the Committee Members question details of the development so that they have the opportunity to input into the design of these strategic developments. They will therefore express views on aspects of the development (such as its external appearance, impact on neighbours or transport network implications) which will often display predisposition around these elements. What the Members of the Committee should not do at this stage is to express a firm view on the development as a whole, as this could amount to predetermination. Such a view should only be formed at the end of the process when all the material considerations are available to the Members of the Committee to consider and weigh up before finalising their view.~~

~~3.64.6~~ A Planning Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined ~~their position~~ the matter or have given that impression, they should avoid being part of the decision-making body for that application. ~~A Planning Committee Member, could speak at a Planning Committee (in accordance with the Council's public speaking procedures) on behalf of their constituents, having declared their pre-determined position.~~

4.7 Participation as a Member in a Planning Committee where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.

4.8A Member should stand down from any agenda item where they have a relevant and current or recent private business or personal knowledge relationship and association with any applicant or applicant's representative. If in doubt about this Members should ~~may~~ speak with the Chairman or the Monitoring Officer or his/her representative before hand any decision is made.

## 45 **5 APPLICATIONS SUBMITTED BY THE COUNCIL, COUNCILLORS OR OFFICERS**

### ***Applications submitted by the Council***

4.15.1 Proposals for ~~the~~ Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

5.2 Certain Councillors may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer. ~~The most appropriate course of action if that is the case, is that the Councillor concerned may address the Committee in the applicant's speaking slot (see the Planning Committee Procedure Rules) but does not take part in its consideration and determination. It is important that the Councillor should restrict their address to the Committee to relevant planning considerations rather than wider non-planning issues that are not material to the determination of the application.~~

Applications submitted by Councillors or officers

5.3. It is perfectly legitimate for planning applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.

4.25.2 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing and/or determination. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing and/or its determination.

4.35.3 The 1APP planning application form requires an applicant to indicate whether they are a member of staff or an elected Member or a partner/spouse of a Member or Officer of the Council. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)
- Officers of the Local Planning Authority.

4.45.4 The term "Officers of the Local Planning Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's planning function and include all external persons such as lawyers, contractors and advisors who work for the Local planning Authority.

~~4.5 — The procedures to be followed in Committee in such circumstances are as follows:~~

- ~~• The consideration in Committee of an application from a Councillor may be considered a Disclosable Pecuniary interest for that Councillor and Councillors need to be mindful of their obligations in relation to Disclosable Pecuniary Interests as set out in the Members' Code of Conduct.~~
- ~~• If such a Councillor does not have a Disclosable Pecuniary interest they may address the Committee as the applicant in accordance with the Council's public speaking procedures. If however, such a Councillor has a Disclosable Pecuniary Interest they may not participate in the consideration of the matter and may therefore not speak on the matter. They would need to have a representative speak on their behalf.~~

- ~~The Members of the Committee must consider whether the nature of any relationship means that they have a Disclosable Pecuniary Interest in relation to the matter and if so, they may not participate in the consideration of that matter.~~

~~4.6 The principle in the final bullet point also applies to applications submitted by officers when they are considered in Committee.~~

## **56 LOBBYING ~~OF AND BY COUNCILLORS~~**

~~5.16.1~~ Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Planning Committee.

~~5.26.2~~ As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

~~5.36.3~~ Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

### **Lobbying of Councillors**

~~5.46.4~~ A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

~~5.56.5~~ Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence etc in respect of an application) to the Planning Service as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (eg refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality; and inform the ~~inform the~~ Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying ~~or approaches (including inappropriate~~



~~offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up where necessary.~~

~~5.6—Planning Committee Members should note that, subject to the requirements to ensure that Members comply with the Members' Code of Conduct and the rules regarding bias and pre-determination and ensure that they take appropriate action in relation to Disclosable Pecuniary Interests, they are not precluded from:~~

- ~~• listening or receiving viewpoints from residents or other interested parties;~~
- ~~• making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to predetermination and they make clear they are keeping an open mind;~~
- ~~• seeking information through appropriate channels; or~~
- ~~• being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided they explain their actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.~~

~~5.7—In the interest of openness, it is recommended that Planning Committee Members declare any lobbying to which they have been subject.~~

~~5.8—It is very difficult to convey every nuance of these situations and to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual Councillor.~~

### **Lobbying by Councillors**

~~5.9—Planning Committee Members should not become a member of, lead or represent a national or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Member does, he/she may appear to be biased. Whilst they may be able to address the Committee as a Ward Councillor or an objector, they are not able to participate or vote on any matter in respect of which they have a Disclosable Pecuniary interest unless they have received a dispensation for this purpose from the Monitoring Officer.~~

~~5.10—Planning Committee Members can join general groups which reflect their areas of interest and which concentrate on issues beyond particular planning proposals, but they should disclose a personal interest where that organisation has made representations on a particular proposal. A Planning Committee Member should make it clear to that organisation and the Committee that they have reserved judgement and the independence to make up their own mind on each separate proposal.~~

~~5.11—Councillors should not excessively lobby Planning Committee Members regarding their concerns or views on a planning application, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.~~

~~5.12—Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity. Nor should they request officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties.~~

~~5.13—Call-in procedures, whereby Ward Councillors can require a proposal that would normally be determined under officers' delegated authority, to be determined by a planning committee, require the reasons for call-in to be recorded in writing and to refer solely to material planning considerations. The procedures for this are set out in the Committee Consideration Criteria in the Planning Committee Procedure Rule.~~

~~5.14—Planning Committee Members should not decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so.~~

~~5.15—As previously outlined, Councillors must always be mindful of their responsibilities and duties under their Code of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Code.~~

## **67 PRE-APPLICATION DISCUSSIONS**

~~6.17.1~~ Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. If potential applicants seek to meet Planning Committee Members then any such pre-application meeting should be organised through officers. ~~For this reason the Council have developed pre-application processes that enables engagement at the pre-application stage.~~

~~6.2—For major strategic applications the Council offers a service to potential applicants to present their schemes to the Council's Planning Committee. Details of this are set out in the Planning Committee Procedure Rules. This is the way in which Planning Committee Councillors engage with these schemes and there should therefore be no need to attend any other meeting with potential applicants or their agents/representatives.~~

~~6.37.2~~ In other cases potential applicants may seek to meet Councillors. For minor or household applications these can be treated as a form of lobbying and Councillors, including Planning Committee Members, should follow the advice set out above.

~~6.4—Where the application is more substantial, but not subject to pre-application committee presentations, these meetings will be subject to the following procedures:~~

- ~~• No private meeting involving a member or substitute member of the main Planning Committee or Area Planning Committees shall be convened without the presence of a Council planning officer for the entire duration of the meeting.~~

- ~~Both this Code and the Members' Code of Conduct will apply when attending such meetings.~~
  - ~~Any Planning Committee Member involved in such a meeting, who sits on the Committee that subsequently considers any resulting application, should declare their attendance at the meeting in the same way as lobbying would be declared.~~
  - ~~Officers (and any Councillor, if present) should make it clear from the outset that the discussion will not bind the Council to making a particular decision and that any views expressed are personal and provisional.~~
  - ~~Any advice given should be consistent and in accordance with the Development Plan and officers should agree, prior to any meeting, on a consistent interpretation of Development Plan policies as applied to the particular proposal.~~
  - ~~Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested Councillors up to date) to ensure that the authority's position is co-ordinated.~~
  - ~~A contemporaneous note of the meeting should be prepared by the planning officer attending wherever possible and a copy sent to all parties for their agreement.~~
  - ~~The final version of the note of the meeting will form part of the planning file and should a planning application subsequently be received, it will thereby be open to public inspection.~~
- 6.5 ~~Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken.~~
- 6.6 ~~Planning Committee Members should not attend pre-application meetings that are not organised through officers.~~

## **78 POST-SUBMISSION DISCUSSIONS**

- 7.18.1** A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 7.28.2** In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and run under the same procedural rules as pre-application discussions.
- 7.38.3** If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Planning Committee Member ~~Councillor~~ should report to the Chief Planning Officer any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.
- 8.4** Planning Committee Members should not attend post-submission meetings that are not organised through officers.



8.5 Councillors should report any substantive discussion with applicants to the chief planning officer.

## **89 SITE VISITS**

9.1 9.1—The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area, and is an opportunity to hear the views of the members of the public, applicants and other interested parties. Discussions on site visits shall be confined to the application as currently submitted.

9.2 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.

9.3 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be to brief Members on the planning applications(s) the subject of relevant to the visit, and explain the reasons if the application was deferred for a visit;

9.4 9.4—Officers shall ensure, where practical, that applicants and Members are invited to attend the visit and that they are able to view all key parts within or adjoining the site.

9.5 Whilst on site visits, Members of Planning Committee should not express an opinion on the planning application or its merits, and should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination.

9.6—Members and Officers are obligated not to waste Council resources and, as such, a site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers (although if that is the case, additional illustrative material should have been requested in advance);

9.8—Members who were not present at a pre-arranged site visit should not seek to defer consideration of the application.

9.6 Members of the planning committee who were not present at a pre-arranged site visit should not seek to defer consideration of the planning application.

9.7 A site visit should not be arranged on the basis of exposing Members of the Planning Committee to local opinion but should be to explore the planning issues in the application.

## **910 PLANNING APPEALS**

~~9.1~~10.1 Appeals ~~into~~ against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.

10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they discuss their participation with the cChief pPlanning oOfficers to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council, brings the Council into disrepute or puts the decision made at risk of challenge.

10.3 Where the Planning Committee or an Area Planning Committee refuses an application against the officer's recommendation one Member of the Committee should attend any appeal on behalf of the Council and other Members may attend as observers if they so wish. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision with such assistance from the ~~nominated~~ lead Committee Member as may be required. The inspector is required to determine the appeal on its planning merits and therefore all representations should be so directed.

~~9.2~~

10.4 Where the ~~appealed~~ decision of planning committee members is ~~was~~ contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant employed by the Council.

~~9.3~~10.5

## **1011 PLANNING ENFORCEMENT**

10.111.1 ~~It is perfectly legitimate for~~ Councillors ~~to~~ should bring to the attention of the Planning Service suspected breaches of planning ~~control~~ law so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the cChief pPlanning oOfficer.

~~10.2 The Council's planning enforcement service operates to a priority system so that those breaches that cause the most harm are dealt with first. This priority system is designed to produce a fair and responsive enforcement service.~~

## **1112 COUNCILLOR TRAINING**

~~11.1 Councillors may not participate in decision making at meetings of the Council's Planning Committees unless they have attended mandatory training. This will be provided by the Council's planning and legal services and will cover the principles of planning and probity in planning.~~

~~11.2~~ 11.2.1 ~~All~~ Whilst all new Members, newly appointed Chairmen and returning Members when re-elected, of the Council's Planning Committees ~~and new substitute Members should~~ must attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting. ~~have to attend this training before they can participate in the Council's Planning Committees, and all o~~ Other Planning Committee Members and substitute Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

~~11.3~~ All Planning Committee Members should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, policy, procedures, and good practice, which will assist them in carrying out their role properly and effectively.

~~11.4~~ Training provided on planning related matters is aimed at Planning Committee Members but is open to any Councillor with an interest to attend.

## ~~12~~ 12 — AMENDMENTS/VARIATION

~~13~~ Where amendments/variation to this Code are necessary due to legislative changes, the Head of Governance may make such consequential changes to this Code as are necessary to comply with the law.

## 13. MEETINGS OF THE PLANNING COMMITTEE

~~13.1~~ A clear distinction has to be drawn between a Member and an Officer attending a Public Meeting and their roles when they attend meetings of the Planning Committee.

~~13.12~~ No material revision to any planning application submitted by the applicant which might lead to a change in the officer recommendation shall be considered at Planning Committee unless it has been submitted at least 14 clear days before the relevant Planning Committee meeting, and has been the subject of a written report prepared by the planning department and any necessary public consultation has taken place.-

~~13.23~~ If the Planning Committee seeks to make a decision contrary to the planning officer's recommendation; the relevant an agreed procedure set out on the attached charts should will be followed. The Courts have expressed the view that the planning reasons for the contrary decision should be clearly recorded which means that members may be required to openly state in the meeting as to how and why they reached a contrary view. and convincing.

~~13.34~~ Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chairman prior to dealing with the next agenda item. This may be by recorded vote., by requesting from each member as to how they have voted, noting this and the member's name.

### 13.5 The Chairman should ensure:

- Members' comments at Committee only relate to the planning merits of the application before them;

- reference at Committee to non-planning issues by the public / Members are discouraged;
- the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined;
- ~~Members and the public should be made aware that the late submission of evidence will not be permitted at Committee as late submission can lead to allegations of unfairness.~~
- Residents and applicants understand that the late submission of evidence could lead to the deferral of the meeting and may not be permitted without agreement of all parties.

# Members' Licensing Code

## 1. Context

- 1.1 This Code has been prepared for all Members who may attend Licensing Committee or Sub-Committee meetings or make representations to such committees as a Ward Member or as an Applicant or an Interested Party. It applies at all times when Members are involving themselves in the licensing process and not just at meetings.
- 1.2 The aim of this Code is to ensure that in the Licensing process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Members Code of Conduct and, should there be any apparent conflict, the requirements of the Members Code of Conduct takes priority.
- 1.3 Decisions that the Council makes about Licensing matters can be quite controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 1.4 Licensing Committee decisions can be appealed to the Magistrates Court, potentially challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. Licensing Committee members will usually be acting in a quasi-judicial manner, without reference to their political considerations and taking into account the issues which the law says are relevant to the decision.

## 2. Role and Conduct of Members and Officers

- 2.1 When Members are making Licensing decisions, they must be:-
  - a) Open-minded: a Member must not make up his/her mind until s/he has heard and considered all the relevant evidence, which will not happen until the meeting itself.
  - b) Open and Transparent: The rules about interests in the Code of Conduct apply with particular relevance to Members who are making Licensing Committee decisions.

The following general advice should be considered by all Members likely to become involved in the Licensing process in any way:

    - An application relating to a premises in the vicinity where a Member lives or has a legal interest in property is likely to involve a pecuniary interest as it may affect the Member's wellbeing.
    - A Member being a frequent visitor to the premises in a personal capacity is likely to involve a pecuniary interest as the decision may affect the Member's wellbeing.

- A Member belonging to a lobby or campaign group that may be directly impacted by the outcome of an application is likely to have a pecuniary interest.
  - A Member having any doubts as to how the Licensing Code of Practice applies should seek advice from the Monitoring Officer or their representative as early as possible.
- c) Reasonable: Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken.
- d) Impartial: Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on the Licensing Committee. Members should not meet with applicants or interested parties other than at meetings arranged through the Council's officer(s). A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee.

### **3. Members who are Applicants or Interested Parties**

- 3.1 It is perfectly legitimate for licencing applications to be submitted by Members and Officers. However, it is essential to ensure that such applications are handled in a way that gives no grounds for accusations of bias or predetermination. Members or Officers who are applicants should take no part in processing the application or in its determination.
- 3.2 A Member may wish to exercise a right to speak on his/her own behalf or on behalf of a close associate. Such a Member:
- a) may make written representations to the sub-committee and may attend the meeting to make representations, answer questions and give evidence, in the same way that the public are allowed to attend the meeting for the same purpose.
  - b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;
  - c) Must conform to the usual deadlines for interested parties;
  - d) Must not seek or accept, or appear to seek, preferential treatment.
- 3.3 A Member considering becoming involved in any way with a matter falling within the remit of the Licensing Committee, relating to a close associate should always consider, given the potential for perception of bias, whether their involvement is necessary.

#### **4. Ward Members**

- 4.1 A Member may wish to exercise a right to speak on behalf of another party, most likely in the role of Ward representative.
- 4.2 Where Ward Members are representing a constituent in respect of Licensing matters it is advisable, to reduce the risk of legal challenge, for the Member to:
- a) Identify the person(s) whom they represent in the form of e.g. Mr X of Smith Street or Mrs Z of Jones Lane
  - b) Have a written record of their constituent's concerns. This may be in the form of an email or letter from the constituent, or the Member's note of a telephone conversation or personal meeting. Should the Sub-Committee hearing result in an appeal, it may be necessary for the Member to substantiate the representations they have made, and documentary evidence will be necessary.
  - c) Use their judgement and, as far as possible, adhere to the concerns of the interested parties.
- 4.3 Members wishing to speak at a hearing before a Licensing Sub-Committee or to have his/her representations considered in respect of Licensing matters must also:
- a) Comply with the deadlines for making valid representations applicable to all other parties; OR
  - b) Advise the Chairman, Head of Governance or Governance officer appointed to the sub-committee of their wish to speak as a representative of an other party who has made a valid representation as soon as possible and at least 15 minutes before the commencement of the meeting of the sub-committee.
  - c) Not seek, or accept, or appear to seek or accept, preferential treatment.
- 4.4 For Gambling Act matters related to a premises licence, Members may make representations without being asked by a resident specifically to do so although Members are reminded of the wider issues of bias, and disclosable pecuniary and non pecuniary interests.

#### **5. Lobbying**

- 5.1 Members are frequently approached by applicants and interested parties who wish either to 'lobby' Members or to ask advice. It is very important that no licencing committee Member makes up his/her mind, or appearing to have done so, prior to the matter's formal consideration and the hearing of the officer's presentation and the evidence and arguments from applicants and interested parties at the sub-committee.
- 5.2 If a licencing committee member is approached by any means by persons wanting to lobby them regarding a Licensing matter to be

heard by that sub-committee then the Member is strongly advised to:

- a) Explain they cannot discuss the matter;
- b) To refer the person to their Ward Member (not being on the sub-committee) and/or Licensing Officer;
- c) Make and keep a written record of these instances in case the matter proceeds to an appeal;
- d) Declare the circumstances of the lobbying at the meeting considering the item;
- e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Licensing Officer;
- f) Avoid giving any commitment or impression of a commitment; that they hold any particular view about the matter or how they will vote;
- g) Where possible, provide information on the Council's general Licensing policies and procedures only.

- 5.3 Licencing committee Members, if they wish to be free to debate and vote on an application, should avoid organising support for or opposition to a Licensing matter to be determined by Committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.
- 5.4 If a Member realises that s/he has made up their mind before the committee meeting then this must be declared and the Member should withdraw from that sub-committee.
- 5.5 Decisions should be taken in accordance with any statutory requirements and should not be improperly influenced by or in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations alone.
- 5.6 No Member should accept any gifts or hospitality from an applicant or interested party in a Licensing Committee matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum value, its acceptance is declared as soon as possible and it must be recorded in the Member's Register of Interests if its value is over £25.
- 5.7 Members of the Licensing Committee should discourage applicants or agents from approaching them, should aim to minimise social contacts with known Licensees or agents, and refrain from such contacts when an application has been submitted.

## **6. Guidance on Site Visits**

- 6.1 Site visits by Licensing Sub-Committee Members are extremely rare and generally unnecessary and can put individual Members and the Licensing Authority at risk of accusations of bias.



- 6.2 Site visits are only likely to be appropriate where one would assist the sub-committee in making a more informed decision in a shorter time such as:
- Where the application to be considered by the sub-committee is factually complicated; or
  - Where a hearing is expected to last a full day or more; and
  - Where a site visit would materially reduce the time required by the sub-committee to clarify factual matters such as details of premises layout.
- 6.3 There are restrictions on the organisation and attendance at site visits, which would be organised by Licensing Officers. These include that:
- a) Licensing Officers would accompany the sub-committee members
  - b) All Sub-committee Members must visit at the same time
  - c) The site visit should only be an opportunity to seek factual information and to observe the site
- 6.4 A report of the visit would be prepared by the Licensing Officer and would form part of the full report presented to the sub-committee.

Sub-committee Members should not visit a site that is subject to an application (or one subject to any enforcement) other than as part of an official site visit.

## **7. The Ombudsman**

- 7.1 The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.
- 7.2 In essence, however, the Ombudsman cannot challenge the decision made by any Licensing Sub-committee but can challenge the way in which that decision was made. If a Sub-committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.
- 7.3 However, that does not mean that the Ombudsman has the power to overturn Licensing decisions; only the courts of law can do that and only in strictly defined circumstances.
- 7.4 The potential for maladministration, however, is a concern to the Council as, amongst other things, this could result in an award of cost and compensation against the Council.

8. **Councillor Training**

- 8.1 All new Members, newly appointed Chairmen and returning Members of the Council's Licencing Committees should attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting. Other Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

# Members' Licensing Code ~~of Practice~~

## ~~1. Introduction~~

- ~~1.1 This Code of Practice applies only to hearings held by the Licensing Committee or the Licensing Sub-Committee(s) to consider licence applications or appeals under the following legislation:~~

~~Licensing Act 2003~~

~~Gambling Act 2005~~

~~Local Government (Miscellaneous Provisions) Act 1982 in relation to Sex Shops, Sex Cinemas and Sex Encounter Establishments~~

~~London Local Authorities Act 1990 in relation to Street Trading~~

~~London Local Authorities Act 1991 in relation to Special Treatments Premises~~

~~Hypnotism Act 1952~~

~~London Local Authorities Act 2007 in relation to Street Trading~~

~~Manufacture and Storage of Explosives Regulations 2005~~

~~Motor Salvage Operators Regulations 2002~~

~~Poisons Act 1972~~

~~Scrap Metal Dealers Act 1964~~

~~Vehicles (Crime) Act 2001~~

~~Safety at Sports Grounds Act 1975~~

## ~~1. Context~~

- ~~1.12~~ This Code has been prepared for all Members who may attend Licensing Committee of Sub-Committee meetings ~~whether as Members of a Licensing Sub-committee members, or in any other capacity, including~~ or make representations to such committees as a Ward Member or as an Applicant or an Interested Party. It applies at all times when Members are involving themselves in the licensing ~~and Gambling~~ process and not just at meetings.

### ~~1.2 This Code applies equally to Co-Opted Members of council committees as it does to elected Members.~~

- ~~1.23~~ The aim of this Code ~~of Practice~~ is to ensure that in the Licensing process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Members Code of Conduct and, should there be any apparent conflict, the requirements of the Members Code of Conduct takes priority.

- ~~1.4 If a Member were to behave in a way not compliant with this Licensing Code of Practice this can result in:~~

- ~~• Putting the Council at risk of the legality and/or maladministration of the related decision; and/or~~

- ~~The Member at risk of an allegation of breach of the Members Code of Conduct.~~

## **~~2. Licensing Decisions~~**

- 2.1** Decisions that the Council makes about Licencing matters can be quite controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.2** Licensing Committee decisions can be appealed to the Magistrates Court, potentially they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. ~~There is also a risk that Members can be named in a report made to the Group Leaders Panel for breach of this Code. Barnet's Members Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. Licensing Committee members will usually be acting in a quasi-judicial manner. Members are required to act in a quasi-judicial role,~~ without reference to their political considerations and taking into account the issues which the law says are relevant to the decision.

## **2. Role and Conduct of Members and Officers**

- 2.13** When Members are making Licensing decisions, they must be:-
- a) Open-minded: a Member must not make up his/her mind until s/he has heard and considered all the relevant evidence, which will not happen until the meeting itself. ~~If Members indicate which way they intend to vote before that, they are disbaring themselves from taking part in the decision.~~
  - b) Open and Transparent: The rules about interests in the Barnet Code of Conduct apply with particular relevance to Members who are making Licensing Committee decisions. ~~It is very important that in relation to each matter, Members consider whether they have an interest which should be explained to the public, or which might prevent them from participating in the committee's deliberations and the decision. A Member must seek advice as soon as s/he thinks that there may be any doubt about this.~~  
The following general advice should be considered by all Members likely to become involved in the Licensing process in any way:
    - An application relating to a premises in the vicinity where a Member lives or has a legal interest in property is likely to involve a pecuniary interest as it may affect the Member's wellbeing.
    - A Member being a frequent visitor to the premises in a personal capacity is likely to involve a pecuniary interest as the decision may affect the Member's wellbeing.

- A Member belonging to a lobby or campaign group that may be directly impacted by the outcome of an application is likely to have a pecuniary interest.
- A Member having any doubts as to how the Licensing Code of Practice applies should seek advice from the Monitoring Officer or their representative as early as possible.

c) Reasonable: Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken. ~~This applies to all decisions, but the need is greatest where permission is refused, or, where an application is approved but either the application appears to be contrary to the Council's policies or an application which appears similar has recently been refused.~~

d) ~~Impartial: Most Licensing decisions involve applying policies to particular situations. The policies have to be applied impartially without reference to the identity of the individuals concerned. Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on the Licensing Committee.~~

Members should not meet with applicants or interested parties other than at meetings arranged through the Council's relevant officer(s). A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee;

2.4 ~~This Code of Practice is supplementary to the Barnet Members' Code of Conduct. It is intended to show how the general principles in the Code should be applied to Licensing decisions. A breach of this Code may be a breach of the Members' Code.~~

2.5 ~~This Code of Practice applies equally to co-opted members of Council committees as it does to elected members (moved to 1.2);~~

### ~~3~~ **General Advice (moved to 2.1 (b))**

### ~~4.~~ **Members of the committee and sub-committees:**

4.1 ~~The role of members of the committee and sub-committee(s) is to make decisions under the legislation listed in 1.1 above openly, impartially, with sound judgement and for justifiable reasons. This applies equally to policy decisions before the full Licensing Committee as it does with applications. Therefore, Members:~~

- a) ~~Must not make a decision for party political reasons and should avoid any action that may give the perception that this is the case;~~

- ~~b) Must not encourage any member of the public (including but not limited to those speaking at the sub-committee) to communicate with them orally or in writing other than through the sub-committee's procedures;~~
- ~~c) Must make their decision only after due consideration of all the information and only after the presentation of the application at the sub-committee ( or committee ) and thus must be present for the duration of the presentation, any oral representations, debate and other deliberations upon an item in order to be able to vote on that item;~~
- ~~d) Must attend all training relevant to their role as Licensing Committee members offered by the Council;~~
- ~~e) Should not meet with applicants or interested parties other than at meetings arranged through the Council. A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee; (moved to 2.1(d))~~
- ~~f) Should, Members have any doubt about whether they need to declare an interest, they should seek the Monitoring Officer's advice as soon as possible and in any event, prior to the commencement of the sub-committee meeting. Noting that:
 
  - ~~i. The definitions of disclosable pecuniary and non-pecuniary interests in the context of Licensing are the same as for all other areas of the Council's work, and, as provided in the Members' Code of Conduct, contained within the Council's Constitution;~~
  - ~~ii. A non-pecuniary interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;~~
  - ~~iii. A member should not if s/he has a disclosable pecuniary interest in an application sit on the sub-committee considering that application.~~
  - ~~iv. A Member may sit on a sub-committee and consider an application if they have a **non pecuniary interest**, but are advised to decline to sit on the sub-committee.~~~~

2.2 ~~A member is advised not to sit on a sub-committee when that sub-committee is considering an application in the Member's Ward, to avoid accusations of pre-determination and to reduce the risk of legal challenge and/or to reduce the possibility of decisions being taken on the basis of political judgement. This will enable Ward Members to represent their constituents at committee hearings.~~

2.3 ~~v. Members may sit on a sub-committee if an application is~~

~~for premises in a neighbouring or other ward **only** if the premises are not in the vicinity of where the Member lives.~~

~~vi.i. As regulatory matters such as Licensing, Gambling and Sex Establishments are particularly sensitive, it is recommended that Members adopt a particularly cautious approach.~~

~~4.2 When declaring an interest at a Licensing Committee or Sub-committee meeting, taking the recommended cautious approach could include considering that:~~

- ~~a) It is often not enough for a Member to be unbiased, s/he must also be seen to be unbiased;~~
- ~~b) Connections through any organisation, whether political, charitable, social or otherwise, can create an illusion of bias, even where it does not exist; thus Members who have connections with applicants, need to be transparent and quick to reveal them;~~
- ~~c) It may be prudent to be on one's guard against accusations of bias, particularly in the case of applicants and/or agents who might previously have made mischievous or inappropriate applications;~~
- ~~d) Ultimately, the decision as to whether or not to declare an interest must be the Member's own.~~

~~4.3 Equally, other Members should not automatically impute bias merely because an applicant and a Member know one another.~~

### **35. Members who are Applicants or Interested Parties with a pecuniary Interest**

3.1 It is perfectly legitimate for licencing applications to be submitted by Members and Officers. However it is essential to ensure that such applications are handled in a way that gives no grounds for accusations of bias or predetermination. Members or Officers who are applicants should take no part in processing the application or in its determination.

3.25.4 A Member may wish to exercise a right to speak on his/her own behalf or on behalf of a close associate. Such a Member:

- ~~a) Is personally affected by an application and has a disclosable pecuniary interest. S/he~~ may make written representations to the sub-committee and may attend the meeting to make representations, answer questions and give evidence, in the same way that the public are allowed to attend the meeting for the same purpose. ~~Unlike the public, such Members must withdraw from the committee room immediately afterwards.~~
- b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;

- c) Must conform to the usual deadlines for interested parties;
- d) Must not seek or accept, or appear to seek, preferential treatment.

~~3.35.2~~ A Member considering becoming involved in any way with a matter falling within the remit of the Licensing Committee, relating to a close associate should always consider, given the potential for perception of bias, whether their involvement is necessary.

## **46. Ward Members**

46.1 A Member may wish to exercise a right to speak on behalf of another party, most likely in the role of Ward representative.

46.2 Where Ward Members are representing a constituent in respect of Licensing matters it is advisable, to reduce the risk of legal challenge, for the Member to:

- a) Identify the person(s) whom they represent in the form of e.g. Mr X of Smith Street or Mrs Z of Jones Lane
- b) Have a written record of their constituent's concerns. This may be in the form of an email or letter from the constituent, or the Member's note of a telephone conversation or personal meeting. Should the Sub-Committee hearing result in an appeal, it may be necessary for the Member to substantiate the representations they have made, and documentary evidence will be necessary.
- c) Use their judgement and, as far as possible, adhere to the concerns of the interested parties, ~~and refrain from self-expression.~~

46.3 Members wishing to speak at a hearing before a Licensing Sub-Committee or to have his/her representations considered in respect of Licensing matters must also:

- a) Comply with the deadlines for making valid representations applicable to all other parties; OR
- b) Advise the Chairman, Head of Governance or Governance officer appointed to the sub-committee of their wish to speak as a representative of an other party who has made a valid representation as soon as possible and at least 15 minutes before the commencement of the meeting of the sub-committee.
- c) Not seek, or accept, or appear to seek or accept, preferential treatment.

46.4 For Gambling Act matters related to a premises licence, Members may make representations without being asked by a resident specifically to do so although Members are reminded of the wider issues of bias, and disclosable pecuniary and non pecuniary interests.

~~6.5—Members may wish to represent constituents in respect of Licensing Act matters where they have an interest in the matter also. However:~~



- ~~a) Those Members who have a disclosable pecuniary interest may attend the meeting to make representations, answer questions and give evidence on that other party's behalf – including in their capacity as a Ward Councillor representing their constituents – but must withdraw from the committee room completely immediately afterwards and must not take part in the discussion part of the application. However, Members in such a position are advised that it may be simplest, and therefore preferable, to instead ask someone else, for example one of his/her fellow ward Councillors, to make the representations on behalf of the other party instead.~~
- ~~b) Those who have a non pecuniary interest may appear on behalf of another party, including in their capacity as a Ward Councillor representing their constituents. They may remain in the committee room for the entire hearing. However, Members in such a position are advised that it will usually be simplest and therefore preferable to instead ask someone else, for example one of his/her fellow ward Councillors, to make the representations on behalf of the other party instead.~~

## **57. Avoiding fettering discretion and dealing with Lobbying**

**57.1** Members are frequently approached by applicants and interested parties who wish either to 'lobby' Members or to ask advice. It is very important that no licencing committee Member ~~fetters his/or her discretion and therefore his/her ability to participate in decision-making by making/makes~~ up his/her mind, or appearing to have done so, prior to the matter's formal consideration and the hearing of the officer's presentation and the evidence and arguments from applicants and interested parties at the sub-committee.

**57.2** If a licencing sub-committee member is approached by any means by persons wanting to lobby them regarding a Licensing matter to be heard by that sub-committee then the Member is strongly advised to:

- a) Explain they cannot discuss the matter;
- b) To refer the person to their Ward Member (not being on the sub-committee) and/or Licensing Officer;
- c) Make and keep a written record of these instances in case the matter proceeds to an appeal;
- d) Declare the circumstances of the lobbying at the meeting considering the item;
- e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Licensing Officer;
- f) Avoid giving any commitment or impression of a commitment; that they hold any particular view about the matter or how they will vote;
- g) Where possible, provide information on the Council's general Licensing policies and procedures only.

**57.3** Licencing committee Members, if they wish to be free to debate and

vote on an application, should avoid organising support for or opposition to a Licensing matter to be determined by Committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.

**57.4** If a Member realises that s/he has made up their mind before the committee meeting ~~fettered his/her discretion by some comment or action~~ then this must be declared and the Member should ~~not take part in the discussion on that item or vote~~ withdraw from that sub-committee. S/he may remain in the room but may prefer to withdraw.

~~7.5—An important element of the Members' Code of Conduct is the general obligation not to "use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage." In terms of the Licensing process, lobbying of Members can lead to the impartiality and integrity of a Member being called into question. The acceptance of lobbying can cause public mistrust of Local Licensing Authorities. Therefore, the actions and conduct of Members should be seen to be appropriate and above suspicion to an impartial outside observer.~~

~~5.57.6~~ Decisions should be taken in accordance with any statutory requirements and should not be improperly influenced by or in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations.

~~Decisions should be taken in the interests of the Borough as a whole and should not be improperly influenced by or in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations alone.~~

**5.67.7** No Member should accept any gifts or hospitality from an applicant or interested party in a Licensing Committee matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum value, its acceptance is declared as soon as possible and it must be recorded in the Member's Register of Interests if its value is over £25.

**5.77.8** Members of the Licensing Committee should discourage applicants or agents from approaching them, should aim to minimise social contacts with known Licensees or agents, and refrain from such contacts when an application has been submitted.

~~7.9—A Member will not have fettered his/her discretion by:~~

- ~~a) Receiving or listening to viewpoints from interested parties;~~
- ~~b) Making comments to applicants, interested parties, other Members, or Officers provided the comments do not amount to pre-judging and the Member makes it clear that s/he is keeping an open mind;~~
- ~~c) Seeking information through any alternative channel other than Governance Service;~~
- ~~d) Simply being a member of a group or organisation that may make representations on a particular matter before a Sub-committee~~

~~where there is no direct impact on the Member and s/he is not otherwise fettered by any actions or comments made in relation to the group's representations. However the Member should make it clear to both the group or organisation and the committee that s/he has reserved judgement on the matter prior to its consideration at committee.~~

## **68. Guidance on Site Visits**

- 68.1** Site visits by Licensing Sub-Committee Members are extremely rare and generally unnecessary and can put individual Members and the Licensing Authority at risk of accusations of bias.
- 68.2** Site visits are only likely to be appropriate where one would assist the sub-committee in making a more informed decision in a shorter time such as:
- Where the application to be considered by the sub-committee is factually complicated; or
  - Where a hearing is expected to last a full day or more; and
  - Where a site visit would materially reduce the time required by the sub-committee to clarify factual matters such as details of premises layout.
- 68.3** There are restrictions on the organisation and attendance at site visits, which would be organised by Licensing Officers. These include that:
- a) Licensing Officers would accompany the sub-committee members
  - ~~b) Governance Service Officers would not be present~~
  - ~~e)b) All Sub-committee Members must visit at the same time~~
  - ~~d) The applicant would be requested to consent to allowing all interested parties to attend at the same time and if permission was not granted the visit could not proceed~~
  - ~~e) No refreshments or the like should be provided although the use of lavatories is permitted~~
  - ~~f) There should be no discussion as to the application, save as was strictly necessary to clarify factual queries e.g. regarding layouts.~~
  - ~~g)c) The site visit should only be an opportunity to seek factual information and to observe the site~~
  - ~~h) Applicants may be invited to make a factual presentation and respond to questions~~
- 68.4** A report of the visit would be prepared by the Licensing Officer and would form part of the full report presented to the sub-committee.

Sub-committee Members should not visit a site that is subject to an application (or one subject to any enforcement) other than as part of an official site visit.

## **79. The Ombudsman**

- 79.1** The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.
- 79.2** In essence, however, the Ombudsman cannot challenge the decision made by any Licensing Sub-committee but can challenge the way in which that decision was made. If a Sub-committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.
- 79.3** However, that does not mean that the Ombudsman has the power to overturn Licensing decisions; only the courts of law can do that and only in strictly defined circumstances.
- 79.4** The potential for maladministration, however, is a concern to the Council~~concerns the Council's Monitoring Officer~~ as, amongst other things, this could result in an award of cost and compensation against the Council.

## **8. COUNCILLOR TRAINING**

- 8.1** All new Members, newly appointed Chairmen and returning Members of the Council's ~~Licensing~~Licensing Committees should attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting. Other Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

## **10. Sources**

~~This Code follows the following statutory requirements and statutory guidance issued under them:~~

- ~~• The Licensing Act 2003~~
- ~~• The Gambling Act 2005~~
- ~~• Local Government (Miscellaneous Provisions) Act 1982 in relation to Sex Shops, Sex Cinemas and Sex Encounter Establishments~~
- ~~• London Local Authorities Act 1990 in relation to Street Trading~~
- ~~• London Local Authorities Act 1991 in relation to Special Treatments Premises~~
- ~~• Hypnotism Act 1952~~
- ~~• London Local Authorities Act 2007 in relation to Street Trading~~
- ~~• Manufacture and Storage of Explosives Regulations 2005~~

- ~~Motor Salvage Operators Regulations 2002~~
- ~~Poisons Act 1972~~
- ~~Scrap Metal Dealers Act 1964~~
- ~~Vehicles (Crime) Act 2001~~
- ~~Safety at Sports Grounds Act 1975~~
- ~~The Member Code of Conduct~~

and draws on the following guidance

- ~~LACORS (Local Authorities Co-ordinators of Regulatory Services) guidance~~
- ~~AcSES (Association of Council Secretaries and Solicitors) guidance~~
- ~~DCMS Guidance New Gambling Act (Councillors) Explained~~
- ~~Gambling Commission's Guidance/Codes of Practice~~
- ~~London Borough of Barnet's Gambling Statement of Licensing Principles (Revised 2013)~~
- ~~London Borough of Barnet's Statement of Licensing Policy (Revised January 2011)~~
- ~~London Borough of Barnet's Film Classification Policy~~
- ~~London Borough of Barnet's Street Trading Policy~~
- ~~London Borough of Barnet's Sex Establishment Policy~~

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# Access to Information Rules

## 1. NOTICES OF MEETING

The Council will usually give at least five clear working day's notice of any meeting by posting details of the meeting at Hendon Town Hall, The Burroughs, Hendon, NW4 4BG and on its website at <http://barnet.moderngov.co.uk/>

## 2. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports for meetings open to the public available for inspection on the website and at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

## 3. SUPPLY OF COPIES

The Council will supply a limited number of publicly available agendas at meetings. Agendas and reports are also available on the website at <http://barnet.moderngov.co.uk>

## 4. ACCESS TO MINUTES AFTER THE MEETING

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information. Where a vote is taken, the Minutes will record the number of votes for and against and abstentions;
- (b) the agenda for the meeting; and
- (c) reports relating to items when the meeting was open to the public.

## 5. BACKGROUND PAPERS

### 5.1 List of background papers

The Head of Governance will set out in every report a list of those documents (called background papers) which will be made available on request and relate to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
  - (b) which have been relied on to a material extent in preparing the report
- but does not include published works or those which s/he considers disclose exempt or confidential information, the categories which are set out in paragraph 6.4.

## **5.2 Public inspection of background papers**

The Council will facilitate access to each of the documents on the list of background papers for four years after the date of the meeting.

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

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

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

### **6.2 Meaning of “confidential information”**

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

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

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such decision to exclude the public is to be made by resolution of the relevant decision-making committee.

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



## 6.4 Meaning of exempt information

Sections 100A-H and Schedule 12A Local Government Act 1972 define exempt information as information falling within the following categories:

	Category	Explanation
1	Information relating to any individual	
2	Information which is likely to reveal the identity of an individual.	
3	Information relating to the financial or business affairs of any particular person or body (including the authority holding that information).  But this exemption does not apply if the information is required to be registered under the Companies Acts, Friendly Society Act, Industrial and Provident Societies Acts, Building Societies Acts, and the Charities Acts	"Financial or business affairs" includes contemplated, as well as past or current, activities.
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6	Information which reveals that the authority proposes to give a statutory notice under or by virtue of which requirements are imposed on a person; or to make an order or direction under any enactment.	
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
8	Information is not exempt if it relates to the proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and County Planning General Regulations 1992	

Information which falls within any of paragraphs 1 to 7 above is exempt information so long as the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **7. EXCLUSION OF THE PUBLIC'S ACCESS TO REPORTS**

- 7.1 The Council may exclude the public's access to reports which, in its opinion, relate to items during which, in accordance with Rule 6 above, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- 7.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by passing a resolution to exclude the press and public from the meeting. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 7.3 If the matter is considered in public, any related report will also become available to the public.

## **8. JOINT COMMITTEES**

If the Joint Committee contains members who are not on the Executive of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the Full Council and its committees will apply.

## **9. MEMBERS' RIGHTS TO INFORMATION RELATING TO COMMITTEES AND COUNCIL MEETINGS**

- 9.1 A member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council (within the last six years) including background papers (within the last four years). In accordance with Section 100F (2) of the Local Government Act 1972 exempt information may not be disclosed if so determined by the Monitoring Officer. Applications should be made to the Head of Governance and, if available, copies will be supplied upon request.

## Access to Information ~~Procedure~~ Rules

### ~~References:~~

~~Sections 100A-H and Schedule 12A Local Government Act 1972~~  
~~Local Government (Access to Information) Act 1985~~  
~~Data Protection Act 1998~~  
~~Section 22 of the Local Government Act 2000~~  
~~Chapter 7, DETR Guidance on New Council Constitutions~~  
~~Freedom of Information Act 2000~~  
~~Environmental Information Regulations 2004~~  
~~Local Government (Access to Information) (Variation) Order 2006~~

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

### ~~1. SCOPE~~

~~These rules apply to all statutory meetings of the Council, and its Committees and Sub-Committees (together called meetings).~~

### ~~2. ADDITIONAL RIGHTS TO INFORMATION~~

~~These rules do not limit or diminish any more specific rights to information conferred on the public or on Members elsewhere in this Constitution or the law; nor do these rules limit or diminish or limit the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.~~

### ~~3. RIGHTS TO ATTEND MEETINGS~~

~~3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.~~

~~3.2 If a member of the public or press interrupts the proceedings at any meeting the rules relating to disruption as set out in the Meetings Procedure Rules or Council Procedure Rules sections of this Constitution will apply.~~

~~3.3 The public shall be excluded from any meeting during an item of business whenever confidential or exempt information is likely to be disclosed.~~

## 14. NOTICES OF MEETING

The Council ~~are required to~~ will usually give at least five clear working day's notice of any ~~statutory~~ meeting by posting details of the meeting at Hendon Town Hall, The Burroughs, Hendon, NW4 4BG ~~(the designated office) or other designated place~~ and on its website at <http://barnet.moderngov.co.uk/>

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

The Council will make copies of the agenda and reports for meetings open to the public available for inspection on the website and at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

## **36. SUPPLY OF COPIES**

The Council will supply a limited number of publicly available agendas at meetings. Agendas and reports are also available on the website at <http://barnet.moderngov.co.uk>

## **47. ACCESS TO MINUTES AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information. Where a vote is taken, the Minutes will record the number of votes for and against and abstentions ~~will also be recorded;~~

~~(b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;~~

~~(c)~~(b) the agenda for the meeting; and

~~(d)~~(c) reports relating to items when the meeting was open to the public.

## **58. BACKGROUND PAPERS**

### **58.1 List of background papers**

The Head of Governance will set out in every report a list of those documents (called background papers) which will be made available on request and relate to the subject matter of the report which in his/her opinion:

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

but does not include published works or those which s/he considers disclose exempt or confidential information, the categories which are set out in paragraph ~~69~~4.

## **58.2 Public inspection of background papers**

The Council will facilitate access to each of the documents on the list of background papers for four years after the date of the meeting.

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

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

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

### **69.2 Meaning of “confidential information”**

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

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

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such decision to exclude the public is to be made by resolution of the relevant decision making body committee.

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

### **69.4 Meaning of exempt information**

Sections 100A-H and Schedule 12A Local Government Act 1972 define exempt information as information falling within the following categories:

	<b>Category</b>	<b>Explanation</b>	<b>Interpretation</b>
1	Information relating to any individual		
2	Information which is likely to reveal the identity of an individual.		

	Category	Explanation	Interpretation
3	<p>Information relating to the financial or business affairs of any particular person <u>or body</u> (including the authority holding that information).</p> <p><u>But this exemption does not apply if the information is required to be registered under the Companies Acts, Friendly Society Act, Industrial and Provident Societies Acts, Building Societies Acts, and the Charities Acts</u></p>	<p>"Financial or business affairs" includes contemplated, as well as past or current, activities. <del>Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—</del></p> <p><del>The Companies Act 2006;</del></p> <p><del>The Friendly Societies Act 1974;</del></p> <p><del>The Friendly Societies Act 1992;</del></p> <p><del>The Industrial and Provident Societies Acts 1965 to 1978;</del></p> <p><del>The Building Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or</del></p> <p><del>The Charities Act 1993.</del></p>	<p><del>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</del></p> <p><del>"Person" includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.</del></p>
4	<p>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>		<p><del>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined. "labour relations matter" means—</del></p> <p><del>any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act);</del></p>

	Category	Explanation	Interpretation
			<p><del>or</del></p> <p><del>any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to officeholders under the authority as they apply in relation to employees of the authority;</del></p> <p><del>"Employee" means a person employed under a contract of service;</del></p> <p><del>"Office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority</del></p>
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.		
6	Information which reveals that the authority proposes to give <del>under any enactment</del> a <u>statutory</u> notice under or by virtue of which requirements are imposed on a person; or to make an order or		<p><del>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</del></p> <p><del>"Person" includes any public authority, company, or other</del></p>

	Category	Explanation	Interpretation
	direction under any enactment.		<del>legally constituted organisations and the partners in a partnership or firm.</del>
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		
8	Information is not exempt if it relates to the proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and County Planning General Regulations 1992		
<p>Information which –  falls within any of paragraphs 1 to 7 above; <del>and</del>  <del>is not prevented from being exempt by virtue of paragraph 8 above</del>  is exempt information <del>if an</del> so long <del>, as in all the circumstances of the case,</del> the public interest in maintaining the exemption outweighs the public interest in disclosing the information</p>			

#### NOTE—The Public Interest Test

~~The Public Interest Test is where “in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information”.~~

~~The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.~~

~~There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:~~

- ~~• — There is a distinction between the public interest and what merely interests the public.~~



- ~~Would disclosure further the understanding of and participation in the public debate of issues of the day?~~
- ~~Would disclosure promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?~~
- ~~Would disclosure allow individuals and companies to understand decisions made by public authorities affecting their lives?~~
- ~~Would disclosure bring to light information affecting public health and public safety?~~
- ~~Would disclosure irreparably damage the council or a third parties interest?~~

#### **744. EXCLUSION OF THE PUBLIC'S ACCESS TO REPORTS**

- 744.1** The Council may exclude the public's access to reports which, in its opinion, relate to items during which, in accordance with Rule ~~6 above~~<sup>40</sup>, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.
- 744.2** The relevant body is requested in the agenda to confirm the action set out in 11.1 by passing a resolution to exclude the press and public from the meeting. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 744.3** If the matter is considered in public, any related report will also become available to the public.

#### **842. JOINT COMMITTEES**

If the Joint Committee contains members who are not on the Executive of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the Full Council and its committees will apply.

#### **943. MEMBERS' RIGHTS TO INFORMATION RELATING TO COMMITTEES AND COUNCIL MEETINGS**

- 943.1** A member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council (within the last six years) including background papers (within the last four years). In accordance with Section 100F (2) of the Local Government Act 1972 exempt information may not be disclosed if so determined by the Monitoring Officer. Applications should be made to the Head of Governance and, if available, copies will be supplied upon request.

~~13.2 A Member shall not knowingly inspect or request a copy of any document relating to a matter in which s/he:  
is professionally interested; or  
has a pecuniary interest within the meaning of the Code of Conduct for Members as set out in this Constitution.~~

~~14. MEMBERS' RIGHTS TO INFORMATION NOT RELATING TO COMMITTEES AND  
COUNCIL MEETINGS~~

~~14.1 Members' rights of access to information not relating to committees and council meetings are set out in the Members' Information Management Policy.~~

Explanatory Note

## **CODE OF CONDUCT FOR MEMBER-OFFICER RELATIONS**

### **1. CONTEXT**

- 1.1 This Code is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government.
- 1.2 The Council has endorsed this Code as setting the standard for the conduct between Officers and Members.
- 1.3 Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of residents in their wards.
- 1.4 The Officers of the Council will support all Members to enable them to perform these roles effectively in the interests of the Council and residents. They will provide support, information and advice to Members to help them in these roles in accordance with these protocols.
- 1.5 The organisational role of Officers has two important dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.
- 1.6 Professional Officers reasonably expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not be required to make recommendations they cannot professionally support) and the chance to 'explain' what appears to be a performance failure or inconsistency.
- 1.7 In addition, Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of officers to manage the implementation of policy. This does not necessarily imply no Member involvement in implementation issues, but rather a set of understandings which both parties can agree to.
- 1.8 Officers serve the whole Council. They work to the instructions of their line manager through to the Chief Executive - not individual Members of the Council, whatever office the Member might hold.
- 1.9 In relation to staffing matters Members and officers will comply with Human Resource procedures and regulations.

## 2. **PERFORMANCE OF OFFICERS**

- 2.1 Members have a right to criticise reports or the actions taken by Officers, but they should always:
- avoid personal attacks on Officers
  - ensure that criticism is presented in a reasonable manner.
- 2.2 Complaints about officers or council services should be made to the relevant line manager or to the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort.
- 2.3 Members should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council. In general Officers are unable to 'answer back' or defend themselves against criticism in a public forum.

## 3. **POLITICAL NEUTRALITY OF OFFICERS**

- 3.1 There is statutory recognition for party political groups and sometimes consultation is required with committee chairmen. It is common practice for meetings to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision-making body or officers under delegated powers.
- 3.2 The extent to which it is appropriate for officers to attend meetings with Members depends on the nature of the meeting, but the general principles governing the basis on which they attend and take part are the same. In principle, equivalent facilities are available to all political groups represented on the Council if they so request.

### Political Group Meetings:

- Officers, apart from political assistants, should not attend political party group meetings, or party political meetings involving party colleagues who are not members of the Council, without the agreement of the Chief Executive/Chief Officer. Conversely, the Chief Executive may arrange meetings with, or presentations to, party groups on particular topics.
- Officers may make presentations to party groups of members of the Council on request. All requests for advice of this kind should be routed through the Chief Executive/Chief Officer who would be responsible for advising the other groups who could then ask for the same briefing.
- Officers may attend briefing meetings with the Leader of the Council, Chairmen and Vice-Chairmen, either on a specific topic or prior to a formal meeting or the like.

Other meetings:

- Officers may attend for briefing with the Leader and Lead Members of all political parties on the Council in their offices.
- The Leader of the Council may arrange regular meetings and invite Directors and other senior officers to attend.
- Officers may meet Chairmen prior to consulting them formally as a precondition to exercising delegated powers.
- For other meeting approval should be sought by officers from their Chief Officer.

3.3 Any particular case of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

3.4 Officers must never allow their own personal or political opinions to interfere with their work.

3.5 Senior officers and political assistants are subject to legal rules limiting their political activities outside work.

#### 4. **PERSONAL RELATIONSHIPS**

4.1 Good working relationships between Officers and Members are at the heart of good local government.

4.2 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

“Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual councillors and officer can damage this relationship and prove embarrassing to other Councillors and Officers”.

4.3 The Nolan report\* provides the following quote to illustrate its view of the correct spirit of Member-Officer relations:

“I do not think it is part of the proper relationship between Officers and Councillors if Officers are somehow seen in public as people who can be appropriately harangued or criticised or told that they do not know what they are doing. I think that the best relationship between Officers and councillors is much more a partnership relationship”  
Gerry Stoker, Professor of Government, University of Strathclyde.

\*[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/336840/1stInquiry\\_Summary.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336840/1stInquiry_Summary.pdf)

- 4.4 Members should declare to their Group Leader and to the Chief Executive / Monitoring Officer any external relationship with an Officer which might be seen as influencing their work as a Member. Officers, too, have a duty to declare any such relationship to their Director or Head of Service.
- 4.5 Members must not sit on or participate in decisions by any Council committee or other Council body which directly affects an employee to whom they are:-
- the partner
  - otherwise closely related such as sisters, brothers, parents and grandparents
  - in any other relationship which would jeopardise the work of the Council or make their attendance improper under the National Code of Local Government Conduct.

This is a simplification of the requirements under the law and National Code of local Government conduct and members should refer to other more detailed guidance.

- 4.6 Members should remember that Officers cannot respond to personal criticism in the same way that politicians can and should make their comments accordingly. Members need to be especially careful about contact with less senior staff and must avoid deliberately or unwittingly intimidating staff.
- 4.7 It is especially important that there should be a close working relationship between Chairmen, Vice Chairmen and senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.

## 5. **WHISTLEBLOWING**

- 5.1 The Council has adopted a Whistleblowing Policy and Procedure. This sets out the process under which Officers can raise concerns with the Whistleblowing Officer or the Monitoring Officer. It sets out how this works, and the responsibilities of the people concerned.
- 5.2 The Council neither tolerates improper conduct by its employees or Members, nor the taking of reprisals against those who come forward to disclose such conduct. Members should promptly raise with the council's Whistleblowing Officer, Monitoring Officer or Chief Executive any irregularities and matters which they feel have been dealt with improperly, particularly issues they have reason to think might involve fraud, corruption, bribery, money laundering activity or safeguarding issues.
- 5.3 In accordance with the Whistleblowing Policy, any person who makes a report in good faith will be protected from victimisation or reprisal even if the report is not confirmed by the investigation providing the report was made in good faith.

- 5.4 Conversely, any person should not make a report, which they do not reasonably believe to be true, or which is malicious. Disciplinary proceedings may be taken against any workers who makes false allegations maliciously or with a view to personal gain.
- 5.5 The provisions of this code are in addition to the right of any Member or employee to raise an issue of concern with an appropriate body outside the Council.

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# **CODE OF CONDUCT PROTOCOLS FOR MEMBER-OFFICER RELATIONS**

## **1. CONTEXT WHY PROTOCOLS**

1.1 ~~This Code~~ ~~The purpose of this protocol~~ is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government. ~~The government has stated that without such high standards, local government's powers will not be extended.~~

1.2 ~~The Council~~ ~~Each Group Leader and the Chief Executive~~ has endorsed this Code as setting the standard for the conduct of Officers and Members ~~in Barnet.~~

~~John Hooton~~

~~Chief Executive~~

~~Barry Rawlings~~ ~~Richard Cornelius~~

~~Leader of the~~ ~~Leader of the~~

~~Labour Group~~ ~~Conservative Group~~

1.3 ~~The Nolan Committee report lays down ten principles of public life.~~

### **Selflessness**

1. ~~Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.~~

### **Honesty and Integrity**

2. ~~Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.~~

### **Objectivity**

3. ~~Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.~~

### **Accountability**

4. ~~Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.~~

### Openness

- ~~5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.~~

### Personal Judgement

- ~~6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.~~

### Respect for Others

- ~~7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.~~

### Duty to Uphold the Law

- ~~8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.~~

### Stewardship

- ~~9. Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.~~

### Leadership

- ~~10. Members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.~~

- ~~1.4 These protocols seek to establish the roles and responsibilities of Members and Officers to avoid confusion and misunderstanding. Both Officers and Members need to understand the pressures both sides are under. Most problems between Members and Officers arise not from disagreements about policy but from a failure to understand the pressures that each other face when trying to make and implement policy.~~

## ~~2~~ **THE ROLE OF MEMBERS**

~~1.32.1 Members are elected democratically. It is their policies, ideas and decisions which people vote for.~~ Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of the residents ~~people~~ in their wards.

~~2.2 The Council meets as a body when all its Members are summoned to attend a Council meeting. This meeting has responsibility for specific functions. The Council can delegate authority to committees and sub-committees of Members (and co-opted members in some circumstances) and to Officers. So when Members meet as a committee or sub-committee they can take decisions and act on behalf of the Council, within that body's terms of reference and delegated powers, again subject only to the law.~~

~~2.3 Members will also be involved in a variety of less formal meetings, correspondence and discussions with other Members, Officers and people outside the Council, to help the Council develop policies and deliver services.~~

~~2.4 Members may have different roles:-~~

- ~~• the policy making role - deciding the broad direction of Council policy and how those policies are to be delivered in practice~~
- ~~• the scrutiny role - holding the committees and officers and other local public services to account for their decisions and actions~~
- ~~• the ward member role - representing the interests of individual residents or residents groups within their ward, in the overall public interest.~~

~~1.62.5~~ The Officers of the Council will support all Members to enable them to perform these roles effectively in the interests of the Council and residents ~~the public~~. They will provide support, information and advice to Members to help them in these roles in accordance with these protocols.

### ~~3.~~ **SUPPORT SERVICES FOR MEMBERS**

~~3.1 The Council provides a range of support services for Members. These include computer hardware and software, telephones, stationery and office equipment which can be selected by the individual member, subject to a maximum cost allowance for each Member, the use of photocopying facilities and postage. Each political group has its own office, and the Council employs two political assistants (Labour and Conservative) to help Members of that group in their work.~~

~~3.2 The only basis on which the Council can provide support services of this kind to Members, is to assist them discharge their role as Members of the Council. They are for use on Council business and to help Members in their roles as advocates for their local communities. They should not be used in connection with party political campaigning. Each Member wishing to use these support services is asked to sign detailed protocols as to their use. These cover the operation of the notional allowance, the mail room, the need to avoid using the~~

~~facilities for party political purposes or for campaigning, the use of unavoidable spare capacity, the processes for ordering, maintaining, insuring and returning equipment personal taxation issues, authority to use software licences and data protection.~~

~~3.3 The Chief Executive will from time to time arrange training programmes for Members. These might involve induction for new members, presentations and discussions on particular topics, and training in specialist areas of the Council's work, for example planning. Sometimes training may be a requirement before a Member can take part in a specialist committee. Training may be for all members of the Council or targeted at members of particular committees.~~

~~3.4 The Council runs a mayoral car with a chauffeur and a second car for use on official business when the mayoral car is unavailable or inappropriate. These vehicles can only be used by members or officers for official Council purposes.~~

#### ~~4. MEMBERS' RIGHTS TO INFORMATION NOT RELATING TO COMMITTEES AND COUNCIL MEETINGS~~

~~4.1 Barnet has adopted a policy of Open Local Government. This means information will be provided to members of the public and Members of the Council unless it falls within a list of items which are exempt or confidential or for other legal reasons. Members' rights of access to other information held by the Council are set out in the Members' Information Management Policy.~~

~~4.3 Unless specifically authorised to do so, a member of the Council shall not:~~

~~4.3.1 issue any order for any work which is being carried out by or on behalf of the Council or~~

~~4.3.2 claim by virtue of his/her membership of the Council any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter.~~

~~4.4 Officers should keep Ward Members informed about local matters affecting their wards to enable them to effectively represent the views of their communities. Where it has been indicated that information provided to Ward Members is of a confidential nature, the local Ward Member must not make public nor make personal use of any information or material supplied to them.~~

#### ~~5. THE ROLE OF OFFICERS~~

~~5.1 Officers can also have a variety of roles.~~

- ~~• They must advise Members to help them to take decisions;~~
- ~~• Some Officers have personal statutory powers and duties, for example, the officers designated as Head of Paid Service (Chief Executive), the Chief~~

~~Finance Officer, the Monitoring Officer, Director of Adult Social Services and Director of Children's Service. Others, such as the Registrars of Births, Deaths and Marriages or Health and Safety at Work Inspectors, work under special statutory regimes;~~

- ~~• The Council has given delegated powers to Directors and Chief Officers so that they can act and take decisions on behalf of the Council in many areas, provided they follow the rules of delegation and Members have access to their decisions; and~~
- ~~• The Council is a very large organisation, and officers have a role to play within the organisation itself.~~

1.75.2 The organisational role of Officers has two important dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.

1.85.3 Professional Officers reasonably expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not be required to make recommendations they cannot professionally support) and the chance to 'explain' what appears to be a performance failure or inconsistency. ~~Their task is facilitated by clear political guidance and policy.~~

1.95.4 In addition, Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of officers to manage the implementation of policy. This does not necessarily imply no Member involvement in implementation issues, but rather a set of understandings which both parties can agree to.

1.105.5 ~~Officers service the whole Council. They work to the instructions of their line manager through to the Director/Assistant Director, Lead Commissioner or Head of Service or the~~ Chief Executive - not individual Members of the Council, whatever office the Member might hold.

5.6 ~~Officers should always know that they must:-~~

- ~~• pursue every known lawful policy of the Council~~
- ~~• implement the decisions of Council, committees and sub-committees~~
- ~~• inform Members immediately of any decision that they cannot fully implement~~
- ~~• be helpful and respectful to Members~~
- ~~• behave in a professional manner~~
- ~~• serve all Members, not just those of the Administration group(s)~~
- ~~• maintain confidentiality~~
- ~~• deal with Member enquiries efficiently~~
- ~~• strive continually to comply with the Council's performance management and scrutiny processes~~
- ~~• support Members in their role as ward Councillors.~~

## ~~6. THE COUNCIL AS EMPLOYER~~

~~6.1 Officers are employed by the Council (there are a few exceptions in special cases) and both they and the Council are governed by their contracts of employment and the Council's personnel procedures.~~

~~6.2 In making employment decisions, the key principles to follow (derived from the Nolan report) are:-~~

- ~~• Members should not gain financially or personally, nor should their family or friends~~
- ~~• Members have a duty to declare any private interest, and to protect the public interest~~
- ~~• Members should therefore have no involvement in employment or recruitment cases in which they have a personal interest of this kind~~
- ~~• In making public appointments or recommending people for rewards or benefits, Members must make choices on merit, using objective criteria~~
- ~~• Members should be open about, and are accountable for, the decisions they make in the role of employer. However, some employment matters should be dealt with in confidence.~~

~~6.3 Members should remember that, although the Council has an open access to information policy, there is no automatic right to information about:-~~

- ~~• any individual applicant to become an employee, or~~
- ~~• any individual who is an employee (this includes details of grade and pay, and any disciplinary, grievance or other employment issue that involves a particular employee), or~~
- ~~• consultation or negotiations over any labour relations matter~~

~~6.4 When acting as employer, Members are bound by the complete framework of national and European employment law and may be personally liable for decisions which discriminate on the basis of race, gender or disability. The Council is an equal opportunity employer and members should be guided by this principle in all their relationships with staff.~~

~~6.5 In addition under the Constitution,~~

- ~~• Members must not solicit a job with the Council for any person (but may give them a written testimonial)~~
- ~~• Canvassing support for a candidate for a job with the Council disqualifies the candidate from that job.~~

~~6.6 Political activities and affiliations may only be taken into account in recruitment in relation to the specific posts of political assistant. These are subject to special legal rules.~~

~~1.116.7 In relation to staffing matters Members and officers will comply with Human Resource procedures and regulations. Members will be involved in individual staffing matters if they are a member of a Committee or Panel set up~~

~~for that purpose. The Constitution sets out the role of relevant committees for Chief Officer Appointments, and for disciplinary and grievance processes relating to the Chief Executive, Directors and Chief Officers.~~

~~6.8 In other circumstances, however, Members must not become embroiled in the management of the Council (for example, all other disciplinary, capability or grievance processes are officer-only affairs). They must not engage in activities which might undermine the management line of command or adherence to Council personnel procedures, or try to influence the recruitment process.~~

~~6.9 Likewise, Officers must not raise directly with Members any personal matter to do with their jobs, or relating to any potential appointment.~~

## ~~72. **MONITORING THE PERFORMANCE OF OFFICERS**~~

~~7.1 Members set the policy framework of the Council. Officers are responsible for running services within the agreed budget and policy framework and guaranteeing that strong scrutiny and performance management systems are in place.~~

~~2.17.2~~ Members have a right to criticise reports or the actions taken by Officers, but they should always:-

- avoid personal attacks on Officers
- ensure that criticism is presented in a reasonable manner, well founded.

~~2.27.3~~ Complaints about officers or ~~c~~Council services should be made to the relevant line manager~~Director/Assistant Director/Lead Commissioner or Head of Service where a Member feels the fault lies~~ or to the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort.

~~2.37.4~~ Members should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council. In general Officers are unable to 'answer back' or defend themselves against criticism in a public forum.

## ~~8. **MEETINGS**~~

~~8.1 Both Members and Officers should take proper account of pressures each is under when arranging meetings particularly at short notice.~~

~~8.2 Ward members cannot always expect Officers to attend meetings arranged by them without prior consultation.~~

## ~~39. **OFFICER ADVICE/POLITICAL NEUTRALITY OF OFFICERS**~~

~~39.1~~ There is statutory recognition for political party groups and sometimes consultation is required with committee chairmen. It is common practice for meetings to give preliminary consideration to matters of Council business in



advance of such matters being considered by the relevant decision-making body or officers under delegated powers. .

- 39.2 The extent to which it is appropriate for ~~o~~Officers to attend meetings with Members of this kind depends on the nature of the meeting, but the general principles governing the basis on which they attend and take part are the same. In principle, equivalent facilities are available to all political groups represented on the Council if they so request.

#### Political Group Meetings:

- Officers, apart from political assistants, should not attend political party group meetings, or party political meetings involving party colleagues who are not members of the Council, without the agreement of the Chief Executive/Chief Officer. Conversely, the Chief Executive may arrange meetings with, or presentations to, party groups on particular topics.
- Officers may make presentations to party groups of members of the Council on request. All requests for advice of this kind should be routed through the Chief Executive/Chief Officer who would be responsible for advising the other groups who could then ask for the same briefing.
- Officers may attend briefing meetings with the Leader of the Council, Chairmen and Vice-Chairmen, either on a specific topic or prior to a formal meeting or the like.

#### Other meetings:

- Officers may meet Chairmen prior to consulting them formally as a precondition to exercising delegated powers.
- Officers may attend for briefing with the Leader and Lead Members of all political parties on the Council in their offices.
- ~~The Leader of the Council may arrange regular meetings and invite Directors and other senior officers to attend, in accordance with the following principles.~~
- For other meeting approval should be sought by officers from their Chief Officer.

- ~~9.3 — Certain points must however be understood by all those participating in this type of process, Members and Officers alike. In particular:-~~

- ~~(a) — Officer support in these circumstances should not extend beyond providing information and advice in relation to matters of Council business, and Officers should not be expected to be involved in advising on matters of party business.~~
- ~~(b) — Such meetings, whilst they may form part of the preliminaries to decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions, and should not be interpreted as such.~~



~~(c) — Similarly, where Officers provide information and advice to such meetings in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant body when the matter in question is considered.~~

~~9.4 — Special care needs to be exercised if Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the code.~~

~~9.5 — Officers must respect the confidentiality of any discussions at which they are present with Members. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.~~

3.39.6 Any particular case of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

3.49.7 Officers must never allow their own personal or political opinions to interfere with their work. ~~Officers should not take part and Members should not ask officers to take part in any activity which could be seen as influencing support for a party. Members should raise with the Chief Executive any concerns about the political neutrality of an officer.~~

3.59.8 Senior officers and political assistants are subject to legal rules limiting their political activities outside work.

~~9.9 — The protocols governing the duties of political assistants are summarised below:-~~

- ~~• They are Council employees and subject to Council contracts of employment, *the Council Constitution* and staff instructions.~~
- ~~• They cannot stand in for Members at events or decision-making bodies, although they can attend as non-speaking observers, but not as representatives.~~
- ~~• Each group has appointed a group officer to direct day to day work.~~
- ~~• They cannot be required to breach the Council Constitution, the terms of their contract of employment or the legal restrictions on them.~~
- ~~• They must respect confidentiality regarding the party, group and individual Members.~~

- ~~The Chief Executive deals with appointment, induction, discipline and grievances. The representatives of the Groups will conduct the appraisals. The Chief Executive will ensure the appraisals are undertaken by the Groups.~~
- ~~Council Officers will not require the assistant to divulge confidential information regarding the group, its dealings or its members.~~
- ~~The assistant's normal contact points are members of Service Management Teams, Policy Officers and Governance Service. In making contact the assistant must be careful not to misrepresent the intentions of the group, and must clarify whether they are representing the whole group or individual members.~~
- ~~The existence of assistants should not detract from normal Member/officer relationships.~~
- ~~They cannot access files that a Councillor cannot access, unless the Councillor has demonstrated the need to know.~~
- ~~In external relationships, they must make it clear that they are acting on group instructions, not for the whole Council. They must not speak to a public audience on terms which might create the impression that they are speaking as a representative of their political party.~~

#### 410. **PERSONAL RELATIONSHIPS**

410.1 Good working relationships between Officers and Members are at the heart of good local government.

410.2 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

**24.** "Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual councillors and officer can damage this relationship and prove embarrassing to other Councillors and Officers".

410.3 The Nolan report<sup>\*</sup> provides the following quote to illustrate its view of the correct spirit of Member-Officer relations:

"I do not think it is part of the proper relationship between Officers and Councillors if Officers are somehow seen in public as people who can be appropriately harangued or criticised or told that they do not know what they are doing. I think that the best relationship between Officers and councillors is much more a partnership relationship"  
 –Gerry Stoker, Professor of Government, University of Strathclyde.

~~10.4 — However there is potential for improper behaviour if the normal professional relationship becomes either too cosy or too combative.~~

## ~~11. — **EXCESSIVE FAMILIARITY**~~

~~11.1 — Members and Officers will often work closely together and develop good relationships. This can be beneficial, but there are limits and risks for all concerned in this area and it is not enough to avoid actual impropriety. Members and Officers should at all times avoid any situation which can give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between employees and individual councillors.~~

~~4.411.2 —~~ Members ~~should~~**must** declare to their Group Leader and to the Chief Executive / **Monitoring Officer** any **external** relationship with an Officer which might be seen as influencing their work as a Member. ~~This includes any family, business or sexual relationships.~~ Officers, too, have a duty to declare any such relationship to their Director or Head of Service.

~~4.511.3 —~~ Members must not sit on or participate in decisions by any Council committee or other Council body which directly affects an employee to whom they are:-

- the partner
- otherwise closely related such as sisters, brothers, parents and grandparents
- in any other relationship which would jeopardise the work of the Council or make their attendance improper under the National Code of Local Government Conduct.

This is a simplification of the requirements under the law and National Code of local Government conduct and members should refer to other more detailed guidance.

## ~~12. — **COMBATIVENESS AND PRESSURE**~~

~~12.1 — In line with the National Code's reference to 'mutual respect', it is important that any dealings between Members and Officers both written and oral should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.~~

~~4.5612.2 —~~ Members ~~should~~**must** remember that Officers cannot respond to personal criticism in the same way that politicians can and should make their comments accordingly. Members need to be especially careful about contact with less senior staff and must avoid deliberately or unwittingly intimidating staff. ~~Members and Officers should be aware that problems often arise in informal situations, where Members and Officers are sometimes prone to lose their~~

~~inhibitions. This should not prevent reasonable criticism of the work of Officers by Members.~~

~~12.34.7~~ Members should not put pressure on an Officer on matters which have been delegated for Officer decision. This might lead Officers to make decisions that:

- are not objective and cannot be accounted for
- favour unfairly one member of the public over another.

~~12.4~~ Nor should they bring undue influence to bear on an Officer to take any action which is against procedure or policy, such as

- ~~a breach of personnel procedures~~
- ~~a conflict with the Council Constitution~~
- ~~conflict with planning procedures and policies.~~

~~12.5~~ Members must declare any special relationships with constituents when dealing with Council Officers. Although Members are elected to represent the interest of their constituents, they should not seek special treatment for any individual.

### ~~13.~~ **RELATIONS BETWEEN OFFICERS AND CHAIRMEN**

~~4.86~~~~13.1~~ It is especially important that there should be a close working relationship between ~~the Chairmen, and Vice Chairmen and senior officers of committees and other bodies, Directors, Assistant Directors, Lead Commissioners, Heads of Service and other Senior Officers.~~ However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.

~~13.2~~ Whilst the Chairmen will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that the Director, Assistant Director, Lead Commissioner or Head of Service will always be fully responsible for the contents of any report submitted in his/her name, ~~and the Chief Executive for preparing the agenda. Members must not seek to influence an officer to limit or modify recommendations put forward or withhold information which s/he should properly report.~~

~~13.3~~ Officers within a service are accountable to their Director, Assistant Director, Lead Commissioner or Head of Service. Whilst Officers should always seek to assist Members they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director, Assistant Director, Lead Commissioner or Head of Service, and should not be expected to do so.

### **514. WHISTLEBLOWING**

~~514.1~~ The Council has adopted a Whistleblowing Policy and Procedure. This sets out the process under which Officers can raise concerns with the Whistleblowing

Officer, or, with the Monitoring Officer. It sets out how this works, and the responsibilities of the people concerned.

~~514.2~~ The Council neither tolerates improper conduct by its employees or Members, nor the taking of reprisals against those who come forward to disclose such conduct. ~~It is committed to the highest possible standards of openness, probity and the aims and objectives of the Public Interest Disclosure Act 1998. As such all Members have a duty to comply with the Council's Whistleblowing policy and; should~~ promptly raise with the council's Whistleblowing Officer, Monitoring Officer or Chief Executive any irregularities and matters which they feel have been dealt with improperly, particularly

- ~~provide them with all the evidence or relevant information they have.~~

~~14.3~~ ~~In particular, Members have a duty to raise~~ any issues they have reason to think might involve fraud, corruption, bribery, money laundering activity or safeguarding issues.

~~514.34~~ In accordance with the Whistleblowing Policy, any person who makes a report in good faith will be protected from victimisation or reprisal even if the report is not confirmed by the investigation providing -

~~14.5~~ ~~No action will be taken against any person if a~~ report has been made in good faith, ~~but is not confirmed by the investigation.~~

~~514.46~~ Conversely, any person should not make a report, which they do not reasonably believe to be true, or which is malicious. Disciplinary proceedings may be taken against any workers who makes false allegations maliciously or with a view to personal gain.

~~514.57~~ The provisions of this code are in addition to the right of any Member or employee to raise an issue of concern with an appropriate body outside the Council.

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## ***Barnet Code of Corporate Governance***

*Governance comprises the arrangements put in place to ensure that the intended outcomes for citizens and stakeholders are defined and achieved.*

*To deliver good governance within the Council, all councillors, officers and partners should strive to achieve the Council's objectives while acting in the public interest.*

*Acting in the public interest implies primary consideration of the benefits for the citizens of Barnet, which should result in positive outcomes for service users and other stakeholders.*

The Council should keep governance arrangements up to date and relevant. The main principle underpinning the development of the new Delivering Good Governance in Local Government Framework 2016 (CIPFA/Solace) continues to be that local government is developing and shaping its own approach to governance, taking account of the environment in which it now operates. The overall aim is to ensure that resources are directed in accordance with agreed policy and according to priorities, that there is sound and inclusive decision making and that there is clear accountability for the use of those resources in order to achieve desired outcomes for service users and communities.

The CIPFA Framework positions the attainment of sustainable economic, societal and environmental outcomes as a key focus of governance processes and structures. Outcomes give the role of local government its meaning and importance, and it is fitting that they have this central role in the sector's governance. Furthermore, the focus on sustainability and the links between governance and public financial management are crucial – the Council recognises the need to focus on the long-term. The Council has responsibility to more than their current electors and should take account of the impact of current decisions and actions on future generations.

Good governance cannot be achieved by rules and procedures alone. Shared values that are integrated into the culture of the organisation and are reflected in behaviour and policy are hallmarks of good governance.

The core principles and sub-principles of good governance that apply to the London Borough of Barnet are set out in the table below. The Council produces an Annual Governance Statement to report publicly on the extent to which the Council complies with its local code and this is a statutory requirement. The preparation and publication of an Annual Governance Statement is necessary to meet the statutory requirement set out in Regulation 6 of the Accounts and Audit Regulations 2015. The Annual Governance Statement is reported at the mid-year and end of year points to the Audit Committee and, when reported, will detail how Barnet complies with the principles and sub-principles outlined in the Code.

## ***Principles of Good Governance***

### ***A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law***

Ensuring Members behave with integrity and develop robust policies which place emphasis on agreed ethical values

Seeking to establish, monitor and maintain the Council's ethical standards and performance

Ensuring that external providers of services on behalf of the Council are required to act with integrity and in compliance with ethical standards

Creating the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements

### ***B. Ensuring openness and comprehensive stakeholder engagement***

Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used.

Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully.

Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively

Ensuring that partnerships are based on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit.

Establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service provision is contributing towards the achievement of intended outcomes



### ***C. Defining outcomes in terms of sustainable economic, social, and environmental benefits***

Having a clear vision, which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy, planning and other decisions

Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer

Delivering defined outcomes on a sustainable basis within the resources that will be available

Identifying and managing risks to the achievement of outcomes

Managing service users' expectations effectively with regard to determining priorities and making the best use of the resources available

Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision

Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs

Ensuring fair access to services

### ***D. Determining the interventions necessary to optimise the achievement of the intended outcomes***

Determining the right mix of corporate (legal, assurance, regulatory, and finance) interventions to ensure intended outcomes are achieved

Decisions made need to be reviewed frequently to ensure that achievement of outcomes is optimised

Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and of associated risks – therefore ensuring best value is achieved however services are provided.

Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available

Establishing and implementing robust planning and control cycles that cover

strategic and operational plans, priorities and targets

Considering and monitoring risks facing each partner when working collaboratively, including shared risks

Ensuring arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances

Establishing appropriate key performance indicators (KPIs)

Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the short, medium and longer term

***E. Developing the entity's capacity, including the capability of its leadership and the individuals within it***

Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness

Improving resource use through application of techniques such as benchmarking to determine how resources are allocated so that defined outcomes are achieved effectively

Recognising partnership benefits and collaborative working where added value can be achieved

Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body

Ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services set by members

Developing the capabilities of members and officers, including induction, continuing professional development training, and lessons learnt from governance weaknesses

Ensuring that there are structures in place to encourage public participation

Holding staff to account through regular performance reviews which take account of training or development needs

Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing

***F. Managing risks and performance through robust internal control and strong public financial management***

Implementing robust and integrated risk management arrangements and ensuring that responsibilities for managing risks are clearly allocated

Monitoring service delivery effectively including planning, specification, execution and independent post implementation review

Making decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook

Encouraging effective and constructive challenge and debate on policies and objectives to support balanced and effective decision making

Providing Members and senior management with regular reports on service delivery plans and on progress towards outcome achievement

Ensuring effective counter fraud and anti-corruption arrangements are in place

Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor

Ensuring an Audit Committee or equivalent group function provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment

Ensuring effective arrangements are in place for data use and storage and when sharing data with other bodies

***G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability***

Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style

Providing sufficient information to satisfy transparency demands while not being too onerous for users to read and understand

Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including an action plan for improvement

Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate

Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon

Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the Annual Governance Statement

Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met

# **LONDON BOROUGH OF BARNET CODE OF CORPORATE GOVERNANCE**

## **1. INTRODUCTION**

- 1.1 As with all Local Authorities, the council operates through a governance framework. This is an inter-related system that brings together an underlying set of legislative requirements, governance principles and management processes.
- 1.2 The governance framework must conform to principles of good governance and this Code of Corporate Governance aims to demonstrate how the council does this.
- 1.3 This Code has been drafted in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) guidance documents “Delivering Good Governance in Local Government” and is based on the six core principles taken from the Good Governance Standard for Public Services (2004).
- 1.4 The six core principles of good governance as set out by CIPFA/SOLACE are as follows:
  1. *Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.*
  2. *Members and Officers working together to achieve a common purpose with clearly defined functions and roles.*
  3. *Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.*
  4. *Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.*
  5. *Developing the capacity and capability of Members and Officers to be effective.*
  6. *Engaging with local people and other stakeholders to ensure robust public accountability.*

## **2. ELEMENTS OF CORPORATE GOVERNANCE**

- 2.1 The Code is embodied in various policies, procedures and other documents. The Code provides a summary of how, through these policies, procedures and documents, the Council complies with the core and supporting principles within the “Delivering Good Governance in Local Government” framework.
- 2.2 The Council produces an Annual Governance Statement to report publicly on the extent to which the Council complies with its local code, including

how the effectiveness of these arrangements during the year have been monitored, and on any planned changes in the coming period. (This is a statutory requirement under the Accounts and Audit (Amendment) Regulations 2006.

- 2.3.1 The following table identifies the means through which the council will achieve these core principles as well as the supporting principles and the requirements associated with them.

<p><b><i>Principle 1 – Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.</i></b></p> <p>The Council will focus on the purpose of the authority and on outcomes for the community and create and implement a vision for the local area.</p>		
Supporting Principles	Requirements	How the Council meets the Requirements
<p>1.1</p> <p>Exercise strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users</p>	<p>Develop and promote the authority's purpose and vision</p> <p>Review on a regular basis the authority's vision for the local area and its implications for the authority's governance arrangements</p> <p>Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners</p> <p>Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance</p>	<p>Corporate Plan and Sustainable Community Strategy based on the needs/requirements of the residents and promoting the Council's vision and report on planned activities also communicated through a variety of mechanisms.</p> <p>Annual refresh of the Corporate Plan and the flexibility to update this and the Sustainable Community Strategy where necessary.</p> <p>Partnership arrangements are consistent and are monitored through our key partnership boards.</p> <p>Annual Report of Barnet Partnership and its sub-Partnerships.</p> <p>Corporate Plan performance updates reported on Barnet Online.</p>
<p>1.2</p> <p>Ensure that users receive a high quality of service whether directly, or in partnership, or by commissioning</p>	<p>Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available</p> <p>Put in place effective arrangements to identify and deal with failure in service delivery</p>	<p>Corporate Plan and Sustainable Community Strategy contain clear and effective arrangements for defining how the quality of service is to be measured and for identifying and addressing any failure in service delivery.</p> <p>FirstStat (where services present and are challenged by Officers across the council), Finance and Business Planning Review meetings and</p>

		<p>Member Challenge Events are mechanisms for monitoring and challenging performance around delivery of the Corporate Plan. The Sustainable Community Strategy is monitored and challenged through the Barnet Partnership Board;</p> <p>The Council performance review also supports performance management with guidance emphasising the need to link employee objectives to Corporate Plan priorities and objectives.</p> <p>A centralised complaints process contributes to service delivery with all complaints, comments and compliments logged on one system and categorised in line with Local Government guidance.</p>
<p>1.3</p> <p>Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money</p>	<p>Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions</p>	<p>The Corporate Plan includes a clear definition of how value-for-money will be measured, with key performance indicators in place.</p> <p>Responsibility for addressing value-for-money delivery is clearly allocated to Officers with the necessary skills and clear guidance is available.</p> <p>The Council's External Audit arrangements review value for money and performance and report annually to those charged with governance.</p> <p>The Council's Internal Audit arrangements are compliant with the Internal Audit Code of Practice based on CIPFA guidance. The Internal Audit Charter is in place which emphasises reviewing arrangements within the council to make the best use of resources.</p>

***Principle 2 – Members and Officers working together to achieve a common purpose with clearly defined functions and roles.***

Supporting Principles	Requirements	How the Council meets the Requirements
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<p>2.1 Ensure effective leadership throughout the authority.</p>	<p>Set out a clear statement of the respective roles and responsibilities of the Leader and of all Council Committees and the authority's approach towards putting this into practice</p> <p>Set out a clear statement of the respective roles and responsibilities of members generally and of senior officers</p>	<p>The Constitution defines the roles and responsibilities of the Leader and Deputy Leader,</p> <p>The Constitution defines the roles and responsibilities of all Council Committees.</p>
<p>2.2 Ensure that a constructive working relationship exists between authority members and officers and that the responsibilities of authority members and officers are carried out to a high standard</p>	<p>Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for the collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required</p> <p>Make a Chief Executive responsible and accountable to the authority for all aspects of operational management</p> <p>Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained</p> <p>Make a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control</p> <p>Make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with</p>	<p>The Constitution clearly sets out the Protocol between Members and Officers. Code of Conduct exists separately for Members and for Officers. Job descriptions are in place clearly defining the roles and responsibilities of senior officers. The Council has an annual and half yearly performance review system.</p> <p>Article 9 of the Constitution sets out the functions of the Council's Chief and Statutory Officers and protocols are disseminated in the organisation.</p> <p>Proper Officer arrangements are established for all financial matters for the Council.</p> <p>A scheme of delegation exists in the Constitution and separately in certain Service Areas (based on the Constitution) to ensure the appropriate exercise of powers in the Council.</p> <p>Member/Officer protocols in the Constitution ensure effective communication between Members and Officers, including the Leader and the Chief Executive.</p>



<p>2.3 Ensure relationships between the authority, Members and the public are clear so that each knows what to expect of the other</p>	<p>Develop protocols to ensure effective communication between members and officers in their respective roles</p> <p>Set out the terms and conditions for the remuneration of members and officers and an effective structure for managing the process, including an effective remuneration committee</p> <p>Ensure that effective mechanisms exist to monitor service delivery</p> <p>Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated</p> <p>When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority</p> <p>When working in partnership:</p> <ul style="list-style-type: none"> <li>- ensure that there is clarity about the legal status of the partnership</li> <li>- ensure that representatives of organisations both understand and make clear to all other parties the extent of their authority to bind their organisation to partner decisions</li> </ul>	<p>Appropriate employment policies are followed including the National Joint Council for Local Government Services as well as Local Agreements.</p> <p>The performance review process, various meeting forums, one to one sessions focussing on delivery issues and progress and Programme and Project Boards addressing the delivery of projects are all effective mechanisms to monitor service delivery.</p> <p>The vision and priorities within the Corporate Plan and Sustainable Community Strategy are developed in consultation with the community and are communicated (disseminated) to ensure that both the public and Council officers are aware of Council obligations under the vision.</p> <p>Partnership guidance refers to the importance of defining roles and responsibilities for partner members and outlining the need for clarifying the legal status of the partnership.</p> <p>A Remuneration Committee was established in March 2012 to implement the provisions of the Localism Act 2011 and in line with good governance principles.</p>
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***Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.***

Supporting Principles	Requirements	How the Council meets the Requirements
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<p>3.1 Ensure Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance</p>	<p>Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect</p> <p>Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols</p> <p>Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice</p>	<p>The Constitution contains codes of conduct and protocols for Members and Officers; there is a performance review process, a corporate complaints process and an anti-fraud and corruption policy.</p> <p>There is a counter fraud framework meeting statutory requirements and according with best practice guidelines. This framework includes the Whistle-Blowing Policy, Fraud Policy, Prosecution Policy, RIPA Policy as well as an annual report to the Audit Committee and an annual work plan.</p> <p>The Code of Conduct for Members provides effective arrangements for ensuring that Members are not influenced by prejudice, bias or conflicts of interests, which are implemented through training and the existence of processes to obtain details of personal interests:</p> <ul style="list-style-type: none"> <li>- the Monitoring officer compiles the Register of Interests and conducts an annual review;</li> <li>- all Council and Committee meetings have declaration of disclosable pecuniary and non-pecuniary interests as a standard agenda item;</li> <li>- registered and declared interests are publicly available;</li> <li>- the arrangements for registration and declaration of interests includes gifts and hospitality.</li> </ul> <p>The Code of Conduct for Officers sets out arrangements for ensuring that Officers are not influenced by prejudice, bias or conflicts of interest and includes the registration of interests.</p> <p>Officer Expenses Procedures encompass statutory requirements and best practice with records kept as part of standard accounting procedures.</p>
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<p>3.2 Ensure that organisational values are put into practice and are effective</p>	<p>Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners</p> <p>Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</p> <p>Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority</p> <p>In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively</p>	<p>The Council has a published set of values: Being Trustworthy, Valuing Diversity, Being Human, and Being Collaborative.</p> <p>Codes of Conduct for Members and Officers are publicly available facilitate the development and maintenance of shared values reflecting public expectations.</p> <p>The Constitution, Ethics and Probity Committee operates in line with clear terms of reference contained in the Constitution. This includes "to consider and make recommendations to the Council on (i) how it can satisfy the continuing duty to promote and maintain high standards of conduct for Members; (ii) on the Code of Conduct for Members and (iii) on ethical standards in general across the authority".</p> <p>Decision making practices are publicly available and include decision-making principles supporting high standards of conduct.</p> <p>Processes for reporting complaints relating to Member conduct are clearly set out on Barnet Online.</p>
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***Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.***

Supporting Principles	Requirements	How the Council meets the Requirements
<p>4.1 Be rigorous and transparent about how decisions are taken and listen and act on the outcome of constructive scrutiny</p>	<p>Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.</p> <p>Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the</p>	<p>The Council resolved on 21 January 2014 to make a change to its governance arrangements to adopt a committee system. With the exception of day to day operational matters, decisions will be made by committees whose membership will reflect the political balance of the Council.</p> <p>Report-writing guidance and</p>

	<p>criteria, rationale and considerations on which decisions are based</p> <p>Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice</p> <p>Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee</p> <p>Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints</p>	<p>templates are used by all Officers writing reports.</p> <p>.</p> <p>The corporate performance-monitoring processes related to the Corporate Plan are in place that scrutinise performance and address weaknesses in delivery.</p> <p>An Audit Committee, with clear terms of reference, cross-party membership and Independent Members review the Code of Corporate Governance.</p> <p>Members of the Audit Committee receive the necessary training in this role and can exercise their power to challenge officers responsible for areas under audit review where assurance levels have not improved, or present high risk to the organisation.</p> <p>A complaints process contributes to informed decision-making.</p> <p>The Corporate Complaints Policy ensures consistent and effective complaints handling across the Council.</p>
<p>4.2</p> <p>Have good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs</p>	<p>Ensure that those making decisions whether for the authority or the partnership are provided with information that is fit for the purpose - relevant, timely and gives clear explanations of technical issues and their implications.</p> <p>Ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.</p>	<p>Decision making protocols are publicly available and set out the criteria on which decisions are based.</p> <p>Clearance processes ensure that decisions are based on correct (fit for purpose) information and that information is available for timely review, including the availability and recording of legal and financial advice.</p>
<p>4.3</p> <p>Ensure that an effective risk management system is in place.</p>	<p>Ensure that risk management is embedded into the culture of the authority with members and managers at all levels recognising that risk</p>	<p>A Risk Management Framework is reviewed annually and reported to the Audit Committee. An electronic risk management system is used to ensure that risk management</p>

	<p>management is part of their jobs.</p> <p>Ensure that effective arrangements for whistle-blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access.</p>	<p>processes are embedded within the culture of the authority. Regular reporting and challenge sessions exist within the council to ensure decision makers are informed on the risks and opportunities for each decision.</p> <p>There is a Business Continuity Framework and toolkit with Business Continuity Plans regularly reviewed to enable efficient continuation of service through incidents.</p> <p>There is a generic major incident plan to fulfil the responsibilities to have appropriate arrangements in place in case of significant national or local incidents.</p> <p>A Whistle-Blowing Policy is available to officers.</p>
<p>4.4</p> <p>Their legal powers to the full benefit of the citizens and communities in their area</p>	<p>Actively recognise the limits of lawful activity placed on the authority by, for example, the ultra vires doctrine but also strive to utilise its powers to the full benefit of the community.</p> <p>Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on the authority by public law.</p> <p>Observe all specific legislative requirements placed upon the authority, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law - rationality, legality and natural justice - into its procedures and decision making processes.</p>	<p>Officers and Members operate lawfully through the existence of mechanisms including:</p> <ul style="list-style-type: none"> <li>• decision-making through the review process of all decisions prior to publications;</li> <li>• Management oversight of the decision making process within a legal context; and</li> <li>• the Internal Audit function and Corporate Anti-fraud function are in place to provide independent assurance on risk areas.</li> </ul>

**Principle 5 – Developing the capacity and capability of members and officers to be effective.**

Supporting Principles	Requirements	How the Council meets the Requirements
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<p>5.1 Make sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles</p>	<p>Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis</p> <p>Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority</p>	<p>Member training, including induction training and specific training in relation to certain committees is provided and this includes non-councillor members of committees.</p> <p>Officers advise Members as required in addition to specific guidance being provided at induction and on Members' correspondence for example.</p> <p>The informal Member Development Panel (one member for each party), supported by Governance Service assesses skills required by Members and identifies, advises on and promotes Member training and development.</p> <p>The Organisational Development Plan incorporates a training policy for Officers, including induction training, is available.</p>
<p>5.2 Develop the capability of people with governance responsibilities and evaluate their performance, as individuals and as a group</p>	<p>Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively</p> <p>Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed</p> <p>Ensure that effective arrangements are put in place for reviewing the performance of Members and agreeing an action plan which might, for example, aim to address any training or development needs</p>	<p>The performance review process (with appraisals recorded and monitored) is the main basis for identifying and addressing training needs, including addressing the skill and support requirements of the statutory officers. Group Leaders administer this for their party.</p> <p>Training in relation to an Officer's area of responsibility is given and for financial and other cross-cutting systems with training needs assessed at appraisals.</p> <p>Role profiles for Members were agreed by General Functions Committee in 2011.</p>
<p>5.3 Encourage new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing</p>	<p>Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.</p>	<p>Representatives from the community engage with the work of the Council through various structures such as the Citizens Panel, the Residents Forums and consultation surveys conducted corporately and at service level.</p> <p>The Remuneration Policy includes</p>

continuity and renewal.	Ensure that career structures are in place for members and officers to encourage participation and development.	career progression guidelines. The Talent Management Strategy encourages Officer participation and development.
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***Principle 6 - Engaging with local people and other stakeholders to ensure robust public accountability.***

Supporting Principles	Requirements	How the Council meets the Requirements
<p>6.1</p> <p>Exercise leadership through which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships</p>	<p>Make clear to itself, all staff and the community to whom it is accountable and for what</p> <p>Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes required</p>	<p>The Sustainable Community Strategy and the Corporate Plan have been disseminated resulting in a clear understanding by staff and the community as to what the Council is accountable for and to whom.</p> <p>The Barnet Partnership Terms of Reference are based on best practice and guidance and arrangements apply as far as possible to all its sub-partnerships.</p> <p>Various performance management structures scrutinise the effectiveness of relationships with partners, monitor delivery, identify and address concerns and report outcomes publicly.</p> <p>.</p>
<p>6.2</p> <p>Take an active and planned approach to engage in dialogue with the public to ensure there is an effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning</p>	<p>Ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively</p> <p>Hold meetings in public unless there are good reasons for confidentiality</p> <p>Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise</p>	<p>Residents Forums, corporate and local consultation exercises, and initiatives to engage specific groups are examples of a variety of consultation and engagement mechanisms to engage with all sections of the Community.</p> <p>Consultations are conducted with residents, Members and staff utilising best practice principles including the Market Research Code of Practice.</p> <p>The Residents Perception Survey on the place and council services is conducted with a representative sample of residents of the borough.</p>

	<p>that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands</p> <p>Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result</p> <p>On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period</p> <p>Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so</p>	<p>There is a Citizens Panel which consists of 1250 residents representative of the borough often used for service specific consultations.</p> <p>There is a Petition Scheme for persons who live, work or study in the authority's area to submit a Petition with their concerns about a Council service or decision.</p> <p>Corporate publications (including Barnet First), the 'Barnet Online' Website, electronic news letters, controlled media pitches, the Council's social media presence through Facebook and Twitter and campaigns to target specific areas are clear channels of communication with the public (both at corporate and at service level).</p> <p>Council and committee meetings are held entirely in public and their reports and minutes are public unless confidentiality is specifically required in accordance with the Access to Information Procedure Rules in the Constitution.</p> <p>Partnership arrangements for consultation are in line with and refer to consultation guidance.</p> <p>There is an annual report of outcomes and achievements in relation to the Council's vision to Council and therefore public. Council also publishes the Annual Governance Statement as part of the Annual Statement of Accounts.</p> <p>The Council is open and accessible to the public through:</p> <ul style="list-style-type: none"> <li>- the above processes for communicating vision and outcomes to the public;</li> <li>- the complaints process available to the public, and</li> <li>- the publicly available Constitution, which sets out a commitment to openness and transparency and</li> </ul>
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		<p>defines processes for public participation at Committee meetings.</p> <p>The Freedom of Information Policy and Publication Scheme ensure openness and accessibility as well as compliance with the requirements of the Freedom of Information Act.</p> <p>The Data Protection Policy, Records Retention and Disposal Scheme and Fair Processing Notice ensure that confidentiality is preserved properly and appropriately.</p>
<p>6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff</p>	<p>Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making</p>	<p>There are clear policies for consultation with staff and their representatives, including trade unions.</p>

### 3. MONITORING AND REPORTING

- 3.1 The Code of Corporate Governance will be reviewed biennially to ensure continuing compliance.
- 3.2 Compliance is regularly tested but not limited to the Internal Audit Plan and Annual Audit Report of the Chief Internal Auditor.
- 3.3 The Council will produce an Annual Governance Statement, which is the formal statement that recognises, records and publishes the Council's governance arrangements as defined in the CIPFA/SOLACE Framework "Delivering Good Governance in Local Government". It will be submitted to the Audit Committee.

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## **HR Regulations**

Except for the powers reserved to General Functions Committee, Full Council or the Chief Officer Appointment Panel, the offer, appointment, varying and ending of contracts of employment is a matter for the Head of Paid Service. The Head of Paid Service will discharge their responsibilities at an operational level through the Human Resources Director, save as to where such functions may not be discharged by Third Parties. Where a matter sits outside these Regulations then it must be referred to the Head of Paid Service for decision in consultation with the Council's Monitoring Officer.

Where the following issues arise from an organisational restructure, the restructure will be considered to have major implications and a report must be submitted to General Functions Committee for approval:

- The anticipated outcome of statutory consultation will mean that 20 or more employees are put at risk of redundancy/TUPE transferred
- Terms and conditions of employment are to be introduced (this excludes compliance with statutory requirements) or replaced (this means a new term or condition).

### **1. The Council Establishment**

Directors, Assistant Directors, Strategic Directors and Heads of Service are responsible for the provision of timely and accurate information about Establishment changes so that accurate lists are maintained and to ensure that establishment costs are within budget. Any changes to establishment must be recorded through a delegated powers report.

### **2. Offer, Appointment, Varying and Ending Contracts of Employment**

#### **2.1 Officer Employment Procedure Rules.**

The Local Government Act 2000, the Local Authorities (Standing Orders) Regulations 2001 and the Local Authorities (Standing Orders) (Amendment) Regulations 2015 require the Council to have rules relating to the recruitment, appointment and dismissal of officers. These are set out below in Section 2.1.

Sections 2.1.3 to 2.1.5 are subject to the following restriction:

\*No vacant posts at Assistant Director level or above shall be advertised or recruited to without prior Committee approval and all new posts at Assistant Director level or above shall be created by committee decision (General Functions Committee, Policy and Resources Committee or Urgency Committee) and not by delegated powers.

### 2.1.1 **Recruitment and appointment**

#### (a) Declarations

<b>Rule</b>	<b>Action</b>
(i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the council; or of the partner of such persons.	All candidates must complete a code of conduct declaration of interests statement as part of the appointment process.
(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.	The application will be passed to the Human Resources Director for the relevant Chief Officer decision.

#### (b) Seeking support for appointment

(i) The council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.	This forms part of the application process.
(ii) No councillor will seek support for any person for any appointment with the council.	Forms part of the application process.

### 2.1.2 **\*Recruitment of Head of Paid Service and Chief Officers**

Where the council proposes to appoint a chief officer (including any appointment that may be made exclusively from among their existing officers), the council will:

(a) draw up a statement specifying: (i) the duties of the officer concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed; (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; (c) make arrangements for a copy of the statement mentioned in paragraphs (1) and 2(a) to be sent to any person on	Appointment of Chief Officers is a function reserved to the Chief Officer Appointment Panel and may include an external appointment process
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request; and (d) Agree the minimum criteria by which objective selection may be made.	
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#### 2.1.3. **\*Appointment of Head of Paid Service**

(a) The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the council. Full Council must also approve the dismissal of the Head of Paid Service	The Chief Officer Appointments Panel will make a recommendation on the appointment of the Head of Paid Service for approval by Full Council.
(b) The full Council may only make or approve the appointment of the Head of Paid Service.	

#### 2.1.4. **\*Appointment of Chief Officers**

(a) A Committee of the council will appoint Chief Officers (as listed in Article 9).	Appointment of Chief Officers (as listed in Article 9) is a function reserved to the Chief Officer Appointments Panel.
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#### 2.1.5. **\*Other appointments**

##### (a) Officers below Chief Officer.

Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors.	The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.
The Head of Paid Service will consult the Chair of the Chief Officers Appointments Panel before making an appointment of deputy Chief Officers.	The Head of Paid Service will consult the chairman of the Chief Officer Appointments Panel. Appointment of Deputy Chief Officers will be reported to General Functions Committee for information.

##### (b) Appointment of political assistants

<p>(i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.</p> <p>(ii) Each post shall first be allocated to a political group in accordance with Section 9 of the Local Government and Housing Act 1989, and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group that does not qualify for one.</p> <p>(iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.</p>	<p>The Monitoring Officer will be responsible for the allocation of posts.</p> <p>The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.</p>
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#### 2.1.6. ***Disciplinary action***

<p>(a) <b>Suspension:</b> The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes are followed. Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.</p> <p>The Head of Paid Service has the power to appoint a Designated Independent Person. Where the process involves the Head of Paid Service the Monitoring Officer shall have this power</p>
<p>(b) <b>Independent person:</b> No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes are followed. Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.</p>
<p>(c) Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes within the Council's contractual Terms and Conditions are followed.</p>

procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.	
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### 2.1.7. *Dismissal*

(a) Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.	The Head of Paid Service will be responsible to ensure that the correct processes as allowed for within the Council's contractual Terms and Conditions are followed.
(b) Any decision to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer must be taken by full Council	<p>Prior to Full Council considering the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, the council must set up a panel to give views, advise and make recommendations to Full Council.</p> <p>The council must invite at least two independent persons to sit on this panel.</p> <p>The panel must be appointed at least 20 working days before the relevant meeting of Full Council.</p> <p>Before the taking of a vote at the relevant meeting of Full Council, the authority must take into account: a) any advice, views or recommendations of the Panel; b) the conclusions of the investigation into the proposed dismissal; and c) any representations from the relevant officer.</p>
(c) Decisions to dismiss a Chief Officer shall be taken by the General Functions Committee	

## 2.2 Varying Terms and Conditions of employment

With the exception of Chief Officers, terms and conditions for employees will be determined by the Head of Paid Service within the agreed negotiating mechanisms. Where an Individual Recruitment and/or Retention Premia is to be included for a position on grades LBB1 to LBB7, the Head of Paid Service, Directors or Assistant

Directors must consult with the Chairman of the General Functions Committee and record the results of that consultation through a Delegated Powers Report.

Directors, Assistant Directors, Heads of Service and Strategic Directors are responsible for the provision of timely and accurate information about changes to individual's Terms and Conditions of employment e.g. work place adjustments and flexible working request.

The Human Resources Director will ensure that contractual variations are properly authorised and allowed for within the Council's contractual Terms and Conditions and are made on an accurate and timely basis.

### **2.3 Leavers**

The Head of Paid Service through the Human Resources Director will ensure that Leavers are managed in accordance with the Council's contractual Terms and Conditions and changes are made on an accurate and timely basis.

## **3 Employee Records**

Directors, Assistant Directors and Strategic Directors and Heads of Service are responsible for the provision of timely and accurate information about changes to employee Records e.g. absence information and input of Performance Reviews.

## **4. Salaries & allowances payable to Council employees and Pensioners**

The Human Resources Director will ensure that properly authorised payments for Salaries and Allowances shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

## **5. Members Allowances**

5.1 The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form.

5.2 The Human Resources Director will ensure that these payments are made on an accurate and timely basis.

5.3 The Monitoring Officer will be responsible for notifying the Human Resources Director of any changes to Members' Allowances.

## **6 Pensions Administration**

6.1 The Head of Paid Service through the Human Resources Director will ensure that on an annual basis that each pensioner residing overseas provides a life certificate.

6.2 The Human Resources Director will ensure that on an annual basis that the Council's discretions under Regulation 66 of LGPS (administration) regulations 2008



and LGPS (Miscellaneous) Regulations 2012 are provided to the Chief Finance Officer for agreement.

6.3 The Human Resources Director will ensure that properly authorised payments for Pensions shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

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## HR Regulations

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Where the following issues arise from an organisational restructure, the restructure will be considered to have major implications and a report must be submitted to General Functions Committee for approval:

- The anticipated outcome of statutory consultation will mean that 20 or more employees are put at risk of redundancy/TUPE transferred
- Terms and conditions of employment are to be introduced (this excludes compliance with statutory requirements) or replaced (this means a new term or condition).

### 1. The Council Establishment

The council Establishment are those posts which have been approved by the Full Council, General Functions Committee, Chief Executive or Chief Officers as being required to deliver the Council's functions and priorities.

~~Directors, Assistant Directors, Commissioning Strategic~~ Directors, Directors, Assistant Directors and Heads of Service are responsible for the provision of timely and accurate information about Establishment changes so that accurate lists are maintained and that they have the information required to ensure that ~~e~~Establishment costs are within budget. Any changes to ~~e~~Establishment must be recorded through a delegated powers report.

### 2. Offer, Appointment, Varying and Ending Contracts of Employment

#### 2.1 Officer Employment Procedure Rules.

The Local Government Act 2000, the Local Authorities (Standing Orders) Regulations 2001 and the Local Authorities (Standing Orders) (Amendment) Regulations 2015 require the Council to have rules relating to the recruitment, appointment and dismissal of officers. These are set out below in Section 2.1.

Sections 2.1.3 to 2.1.5 are subject to the following restriction:

\*No vacant posts at Assistant Director level or above shall be advertised or recruited to without prior Committee approval and all new posts at Assistant Director level or above shall be created by committee decision (General Functions Committee, Policy and Resources Committee or Urgency Committee) and not by delegated powers before the matter is implemented.

### 2.1.1 **Recruitment and appointment**

#### (a) Declarations

<b>Rule</b>	<b>Action</b>
(i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the council; or of the partner of such persons.	All candidates must complete a code of conduct declaration of interests statement as part of the appointment process.
(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.	The application will be passed to the Human Resources Director <del>for the</del> <u>to obtain the</u> relevant Chief Officer decision.

#### (b) Seeking support for appointment

(i) The council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.	This forms part of the application process.
(ii) No councillor will seek support for any person for any appointment with the council.	Forms part of the application process.

### 2.1.2 **\*Recruitment of Head of Paid Service and Chief Officers**

Where the council proposes to appoint a chief officer (including any appointment that may be made exclusively from among the ~~if~~ existing officers), the council will:

(a) draw <del>f</del> up a statement specifying: <ul style="list-style-type: none"> <li>(i) the duties of the officer concerned; and</li> <li>(ii) any qualifications or qualities to be sought in the person to be appointed;</li> </ul>	Appointment of Chief Officers is a function reserved to the Chief Officer Appointment Panel and may include an external appointment process
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<p>(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;</p> <p>(c) make arrangements for a copy of the statement mentioned in paragraphs (1) and 2(a) to be sent to any person on request; and</p> <p>(d) Agree the minimum criteria by which objective selection may be made.</p>	
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#### 2.1.3. **\*Appointment of Head of Paid Service**

<p>(a) The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the council. Full Council must also approve the dismissal of the Head of Paid Service</p>	<p>The Chief Officer Appointments Panel will make a recommendation on the appointment of the Head of Paid Service for approval by Full Council.</p>
<p><del>(b) The full Council may only make or approve the appointment of the Head of Paid Service.</del></p>	

#### 2.1.4. **\*Appointment of Chief Officers**

<p>(a) A Committee of the council will appoint Chief Officers <u>(as listed in Article 9)</u>.</p>	<p>Appointment of Chief Officers <u>(as listed in Article 9)</u> is a function reserved to the Chief Officer Appointments Panel.</p>
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#### 2.1.5. **\*Other appointments**

(a) Officers below Chief Officer.

<p>Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors.</p>	<p>The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.</p>
<p>The Head of Paid Service will consult the Chair of the Chief Officers Appointments Panel before making an appointment of deputy Chief Officers.</p>	<p>The Head of Paid Service will consult the chairman of the Chief Officer Appointments Panel. Appointment of Deputy Chief Officers will be reported to General Functions Committee for information.</p>

(b) Appointment of political assistants

<p>(i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.</p> <p>(ii) Each post shall first be allocated to a political group in accordance with Section 9 of the Local Government and Housing Act 1989, and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group that does not qualify for one.</p> <p>(iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.</p>	<p>The Monitoring Officer will be responsible for the allocation of posts.</p> <p>The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.</p>
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#### 2.1.6. ***Disciplinary action***

<p>(a) <b>Suspension:</b> The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes are followed. Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.</p> <p>The Head of Paid Service has the power to appoint a Designated Independent Person. Where the process involves the Head of Paid Service the Monitoring Officer shall have this power</p>
<p>(b) <b>Independent person:</b> No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes are followed. Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.</p>
<p>(c) Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time</p>	<p>The Head of Paid Service will be responsible to ensure that the correct processes within the Council's contractual Terms and Conditions are followed.</p>

may allow a right of appeal to members in respect of disciplinary action.	
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### 2.1.7. **Dismissal**

(a) Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.	The Head of Paid Service will be responsible to ensure that the correct processes as allowed for within the Council's contractual Terms and Conditions are followed.
(b) Any decision to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer must be taken by full Council	<p>Prior to Full Council considering the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, the council must set up a panel to give views, advise and make recommendations to Full Council.</p> <p>The council must invite at least two independent persons to sit on this panel.</p> <p>The panel must be appointed at least 20 working days before the relevant meeting of Full Council.</p> <p>Before the taking of a vote at the relevant meeting of Full Council, the authority must take into account: a) any advice, views or recommendations of the Panel; b) the conclusions of the investigation into the proposed dismissal; and c) any representations from the relevant officer.</p>
(c) Decisions to dismiss a Chief Officer <u>(other than those referred to in b) above)</u> shall be taken by the General Functions Committee	

## 2.2 Varying Terms and Conditions of employment

With the exception of Chief Officers, terms and conditions for employees will be determined by the Head of Paid Service within the agreed negotiating mechanisms. Where an Individual Recruitment and/or Retention Premia Market Factor Supplement is to be included for a position on grades LBB1 to LBB7, the Head of Paid Service,

Directors or Assistant Directors must consult with the Chairman of the General Functions Committee and record the results of that consultation through a Delegated Powers Report.

~~Directors, Assistant Directors, Heads of Service and Commissioning Strategic~~ Directors, Directors, Assistant Directors and Heads of Service are responsible for the provision of timely and accurate information about changes to individual's Terms and Conditions of employment e.g. work place adjustments and flexible working request.

The Human Resources Director will ensure that contractual variations are properly authorised and allowed for within the Council's contractual Terms and Conditions and are made on an accurate and timely basis.

### **2.3 Leavers**

The Head of Paid Service through the Human Resources Director will ensure that Leavers are managed in accordance with the Council's contractual Terms and Conditions and changes to the Council's Establishment are made on an accurate and timely basis.

## **3 Employee Records**

~~Directors, Assistant Directors and Commissioning Strategic~~ Directors, Directors, Assistant Directors and Heads of Service are responsible for the provision of timely and accurate information about changes to employee Records e.g. absence information and input of Performance Reviews.

## **4. Salaries & allowances payable to Council employees and Pensioners**

The Human Resources Director will ensure that properly authorised payments for Salaries and Allowances shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

## **5. Members Allowances**

5.1 The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form.

5.2 The Human Resources Director will ensure that these payments are made on an accurate and timely basis.

5.3 The Monitoring Officer will be responsible for notifying the Human Resources Director of any changes to Members' Allowances.

## **6 Pensions Administration**

6.1 The Head of Paid Service through the Human Resources Director will ensure that on an annual basis that each pensioner residing overseas provides a life certificate.



6.2 The Human Resources Director ~~will ensure that on an annual basis that the Council's discretions under Regulation 66 of LGPS (administration) regulations 2008 and LGPS (Miscellaneous) Regulations 2012 are provided to the Chief Finance Officer for agreement~~for ensuring that all of the Council's obligations under the LGPS legislation are complied with.

6.3 The Human Resources Director will ensure that properly authorised payments for Pensions shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

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## **X\_financialregs Financial Regulations**

- 1 Introduction
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  - 4.1 Accounting
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5. Risk Management and Control of Resources
  - 5.1 Risk Management
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6. Trading Accounts
7. External Arrangements
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  - 7.3 Work for Third Parties
  - 7.4 Alternative Delivery Models
8. Transparency

The Financial Regulations should be read in conjunction with the Budget and Policy Framework and Procedure Rules.

## **1. Introduction**

- 1.1 The London Borough of Barnet Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to.
- 1.2 The Financial Regulations provide the framework for managing the financial affairs of the Council. These Financial Regulations apply to all members, officers, contractors and partners in the work they do for the Council.
- 1.3 The Director of Resources, in the role as Chief Finance Officer, has statutory duties in relation to the financial administration and stewardship of the Council.
- 1.4 Throughout these Financial Regulations, the title Chief Finance Officer will be used to denote the designated 'Section 151 Officer' of the Council, including Nominated Deputy. This statutory responsibility cannot be over-ridden and arises from Section 151 of the Local Government Act 1972.
- 1.5 Key legislation within this statutory framework includes but is not limited to:
  - Local Government Finance Act 1988
  - Local Government and Housing Act 1989
  - Local Government Act 2003
  - Accounts and Audit Regulations 2015
- 1.6 More specifically, under the statutory framework outlined above, the Chief Finance Officer is responsible for:
  - The proper administration of the Council's financial affairs
  - Setting of, and monitoring compliance with, financial management standards
  - Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
  - Providing financial information
  - Preparing the revenue budget and capital programme (in conjunction with Chief Officers)
  - Treasury management
  - Reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered
- 1.7 Section 114 of the Local Government Finance Act 1988 requires that the Chief Finance Officer, in consultation with the Head of Paid Service and the Monitoring Officer, must inform all Members and external auditors if the Council or one of its officers:
  - Has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful
  - Has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority, or
  - Is about to enter an item of account, the entry of which is unlawful.
- 1.8 Section 114 also requires the Chief Finance Officer to:

- Make a report if it appears to he/she that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. If a section 114 notice is issued, the Full Council must (under section 115) meet within 21 days to consider the notice.
  - Nominate a properly qualified deputy to deputise should he/she be unable to perform the duties under Section 114 personally. The Council must provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.
- 1.9 The Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts. These aspects are set out in section 3: Financial Planning and Financial Management.
- 1.10 The Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised. These aspects are set out in section 4: Financial Administration, Systems and Procedures.
- 2. Responsibilities**
- 2.1 Financial regulations apply to every member and officer of the authority and anyone acting on its behalf (including contractors and partners). All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 2.2 Consultants or agencies acting for the Council will be bound by these procedures, where applicable, and it should be a condition of their employment or engagement that they do so.
- 2.3 The Scheme for Financing Schools, which follows the requirements of the School Standards and Framework Act 1998, governs School Governors, Headteachers and school staff of Maintained schools with delegated budgets. A local financial guide for schools supplements the Scheme for Financing Schools. In these cases the Financial Regulations do not apply. Each school is required to have a financial management policy and procedures document.
- 2.4 Chief Officers (the term used to cover all Directors and Departmental Heads/Managers) are responsible for ensuring that all staff in their departments are made aware of the existence and content of the authority's Financial Regulations and other internal regulatory documents, and that they comply with them. They must also ensure that either hard or electronic copies are available for reference within their departments.
- 2.5 Each Chief Officer is required to maintain a scheme of financial delegation in accordance with the minimum standards as determined by the Chief Finance Officer or Nominated Deputy, operating in support of the operational budget

holder, and which accords to the financial limits included within the overall scheme of delegation and Contract Procedure Rules.

- 2.6 It is the responsibility of each Chief Officer to consult with the Chief Finance Officer and seek advice and/or approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- 2.7 Substantial breaches of Financial Regulations shall be reported to the Chief Finance Officer by the relevant Chief Officer and may be treated as disciplinary offences. Where the Chief Finance Officer considers it appropriate he/she will report to the next meeting of the Audit Committee any substantial breach of these Regulations that is identified.
- 2.8 These Financial Regulations shall not override any statutory provisions that apply.
- 2.9 These procedures shall be reviewed regularly by the Chief Finance Officer but at least every three years. The Constitution, Ethics and Probity Committee approve all amendments and summaries of changes resulting from the review. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.
- 2.10 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the authority are required to follow.
- 2.11 The Chief Finance Officer shall be responsible for ensuring the Council's continuing compliance with the Accounts and Audit Regulations 2015 and all relevant Accounting Codes of Practice and Auditing Statements.
- 2.12 The Chief Finance Officer is required to control and be responsible for the accounts and finances of the Council in every respect and ensure, as far as possible, that consistent financial systems operate throughout the entire operation of the Council.

### **3. FINANCIAL PLANNING AND FINANCIAL MANAGEMENT**

#### **3.1 BUDGET STRATEGY**

- 3.1.1 The Budget Strategy, approved by Full Council, sets out the Council's approach on a range of issues, including:
  - the way in which corporate service priorities are considered as part of the Council's capital and revenue budget processes;
  - the level of balances and reserves (having taken account of advice from the Chief Finance Officer);
  - the management of financial risks
- 3.1.2 The Council's policies for the recovery of debt, which do not form part of the budget strategy are separately approved by the Policy and Resources

Committee. The setting of fees and charges which do not form part of the budget strategy are separately approved by the relevant thematic committee.

- 3.1.3 The Budget Strategy and Medium Term Financial Strategy will normally be recommended by the Policy and Resources Committee to Full Council for approval at the start of each financial year.

## **3.2 MEDIUM TERM FINANCIAL STRATEGY**

- 3.2.1 The Chief Finance Officer, in consultation with the Chairman of the Policy and Resources Committee, will maintain a Medium Term Financial Strategy that covers a period of at least three financial years, including the current financial year.

- 3.2.2 The Medium Term Financial Strategy will be produced and reported in conjunction with the annual budget, council tax and rent proposals to the Policy and Resources Committee and Full Council before 11 March of the preceding financial year. Further updates on the Medium Term Financial Strategy may be reported during the year.

- 3.2.3 The Financial Forward Plan will cover revenue and capital budgets, and will highlight how resources are being re-directed to address Corporate Plan priorities.

- 3.2.4 In respect of resources, the Medium Term Financial Strategy will take account of the following:

- forecasts of formula, business rates and specific grants;
- increases in fees and charges, and the introduction of new charges;
- interest earned and payable;
- levels of reserves and balances;
- increased income from rents and council tax;
- capital receipts and grants.

- 3.2.5 In respect of expenditure, the Medium Term Financial Strategy will take account of the following:

- full year effects of previous decisions;
- changes in responsibility arising from new or amended legislation or regulations, net of increased income from new fees and charges;
- re-direction of resources to achieving Corporate Plan priorities and targets and away from non-priority areas;
- forecast changes in service demand;
- forecasts of inflation, pay awards and interest rates;
- efficiency savings;
- planned service reductions;
- prudential borrowing;
- financial risks.

- 3.2.6 In that the Medium Term Financial Strategy spans a number of years , it is to be expected that figures in later years will often be preliminary estimates and/or aspirations of future decisions and changes in council policy.

### **3.3 ANNUAL BUDGET SETTING**

- 3.3.1 The Council will publish a draft budget for consultation. Arrangements for budget consultation will be determined by the Council.
- 3.3.2 The Chief Finance Officer will set the council tax base for tax-setting purposes before 31 January of the preceding financial year, and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer will notify all Council Members via the Policy and Resources Committee and Full Council.
- 3.3.3 The Policy and Resources Committee will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in February, following announcement of the Final Local Government Finance Settlement. Theme Committees will work up proposals for consideration by the Policy and Resources Committee.
- 3.3.4 Policy and Resources Committee's recommendations to Council must be made in time for Council to set the capital and revenue budget and council tax before 11 March of the preceding financial year.
- 3.3.5 The budget and capital programme that Policy and Resources Committee recommends to Council must be based on reasonable estimates of expenditure and income, and take account of:
- outturn forecasts for the current year;
  - guidance from the Chief Finance Officer on the appropriate level of reserves, balances and contingencies;
  - financial risks associated with proposed budget developments, reductions and ongoing projects;
  - forecasts of capital receipts;
  - affordability of prudential borrowing over the period of the council's financial forward plan;
  - comments from the external auditor on matters such as the level of reserves and provisions.
- 3.3.6 The Chief Finance Officer shall advise the Council whether s/he is able to certify that the draft Budget contains robust estimates and reserves for the purpose of meeting the requirements of Section 25 of the Local Government Act 2003.
- 3.3.7 Fees and Charges  
The budget recommended by Policy and Resources Committee will incorporate the latest projection of income from fees and charges.
- 3.3.8 For the fees and charges within their remit, theme Committees, Planning Committee and Licensing Committee must approve changes to fees and charges that are above CPI inflation by 2% or more, the introduction of new fees



and charges, and changes to fees and charges outside the normal annual cycle.

3.3.9 Changes to fees and charges approved by theme Committees, Planning Committee and Licensing Committee must be reported to Policy and Resources Committee for noting.

3.3.10 Chief Officers may approve changes to fees and charges annually where the change is broadly in line with inflation. The date for annual increases need not be 1 April.

#### Capital Programme and Budget

3.3.11 The Capital Programme has been developed following these principles;

- To maintain an affordable five-year rolling capital programme.
- To ensure capital resources are aligned with the Council's strategic vision and corporate priorities.
- To undertake prudential borrowing only where there are sufficient monies to meet, in full, the implications of capital expenditure, both borrowing and running costs.
- To maximise available resources by actively seeking appropriate external funding and disposal of surplus assets.

3.3.12 Alternative Budget Motions

Any member proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy thereof to the Chief Finance Officer at least 5 clear days before the Council meeting, so that he/she may advise Council whether the resulting amended or alternative Budget would provide robust estimates and reserves for the purpose of Section 25 of the Local Government Act 2003.

3.3.13 The alternative budget motion must set out the appropriate changes to the Policy and Resources Committee's recommendations as they affect the budget for the forthcoming year and any element of the Financial Forward Plan (e.g. balances, full year effects, council tax levels). The Chief Finance Officer may also require further information to be included if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.

3.3.14 Any Member proposing to put an alternative budget motion to Council is responsible for ensuring it is received by the Head of Governance by the date set by the Head of Governance. It is also their responsibility to ensure they give the Chief Finance Officer reasonable time to fully validate their alternative budget proposals.

3.3.15 The Chief Finance Officer is responsible for validating any alternative budget motions put forward by Members.

### 3.4 BUDGET MANAGEMENT & MONITORING

#### 3.4.1 Latest Approved Budget

The latest approved budget for a service or capital project is the budget determined by Council prior to the start of the year, as amended subsequently by approved variations in budget and capital financing throughout the year.

3.4.2 The Chief Finance Officer is responsible for maintaining the latest approved revenue and capital budget in accordance with the scheme of revenue and capital virement as set out below.

#### 3.4.3 Making changes to the budget

A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets but not between revenue and capital.

3.4.4 The Virement Scheme is intended to enable the Directors and their officers to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

3.4.5 Amendments to the revenue budget can only be made with approval as per the scheme of virement table below:

Virements for allocation from contingency for amounts up to and including £250,000 must be approved by the Chief Finance Officer
Virements for allocation from contingency for amounts over £250,000 must be approved by Policy and Resources Committee
Virements within a service that do not alter the bottom line are approved by the Service Director
Virements between services (excluding contingency allocations) up to and including a value of £50,000 must be approved by the relevant Chief Officers
Virements between services (excluding contingency allocations) over £50,000 and up to and including £250,000 must be approved by the relevant Chief Officer and Chief Finance Officer in consultation with the Chairman of the Policy and Resources Committee and reported to the next meeting of the Policy and Resources Committee
Virements between services (excluding contingency allocations) over £250,000 must be approved by Policy and Resources Committee

3.4.6 No revenue virement is allowed between the following budgets without approval of the Policy and Resource Committee;

- Financing charges,
- Rates and other taxes,
- Recharges and Insurances.

3.4.7 Amendments to the capital budget can only be made with approval as per the table below

<b>Capital Virements</b>
Policy & Resources Committee approval is required for all capital budget and funding virements and yearly profile changes (slippage or accelerated spend) between approved capital programmes i.e. as per the budget book. The report must show the proposed: <ul style="list-style-type: none"> <li>i) Budget transfers between projects and by year;</li> <li>ii) Funding transfers between projects and by year; and</li> <li>iii) A summary based on a template approved by the Chief Finance Officer</li> </ul>
Policy and Resources Committee approval is required for all capital additions to the capital programme. Capital additions should also be included in the quarterly budget monitoring report to Performance and Contract Management Committee for noting.
Funding substitutions in order to maximise funding are the responsibility of the Chief Finance Officer.

### Budget Monitoring

- 3.4.8 Chief Officers are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur they should in the first instance be transferred to the contingency budget unless regulations specify restrictions on their use which make this inappropriate or the under spend, additional income or other financial benefits are to be used to offset uncontrollable overspends elsewhere within the service. The chief officer is responsible for notifying the Chief Finance Officer that this is to occur. Approval to these budget variations will be in line with the scheme of virement.

### Budget Monitoring – Revenue

- 3.4.9 Chief Officers should ensure that their revenue cost centre managers do not enter into commitments before satisfying themselves there is sufficient approved budget provision. Chief Officers have no authority to overspend revenue budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.
- 3.4.10 It is the responsibility of Chief Officers to notify the Chief Finance Officer of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income have been identified.
- 3.4.11 Having notified the Chief Finance Officer of a forecast revenue budget overspend, the Chief Officer must submit proposals to the Chief Finance Officer for offsetting the forecast overspend, together with an assessment of the impact these corrective actions will have on service delivery and performance targets. Approval to these budget variations will be in line with the scheme of virement.
- 3.4.12 When notifying the Chief Finance Officer of such a situation, Chief Officers must advise if the problem relates solely to the current financial year or needs to be addressed within the financial forward plan as well.

## Budget Monitoring – Capital

- 3.4.14 Forecast overspends on approved capital projects must be communicated to the Chief Finance Officer immediately. Having notified the Chief Finance Officer, the Chief Officer must submit options to the Chief Finance Officer for offsetting the forecast overspend (e.g. by reducing the project specification, or budget for other projects) and/or identifying additional funding.
- 3.4.15 All forecasted overspends/additions must then be submitted to the Policy and Resources committee for approval.
- 3.4.16 Due to the uncertainty around the generation and timing of capital receipts, and the impact that delays could have on the level of prudential borrowing, capital project managers must obtain the prior approval of the Chief Finance Officer before entering into any individual capital commitment on an approved capital project over £1m.

### Central Contingency

- 3.4.17 The Chief Finance Officer will determine which budget risks and uncertainties are to be held within the central contingency.
- 3.4.18 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer, following the receipt from a Chief Officer of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect (over £250,000), the contingency allocation must be approved by the Policy and Resources Committee.
- 3.4.19 Allocations from the central contingency for unplanned expenditure, including proposals to utilise underspends previously generated within the service and returned to central contingency, will be approved by the Chief Finance Officer. Where there are competing bids for use of under spends, additional income or windfalls previously returned to central contingency, priority will be given to the service(s) that generated that return. Allocations for unplanned expenditure over £250,000 must be approved by Policy and Resources Committee.

## Balances and Reserves.

- 3.4.20 Full Council, sets out the Council's approach on the level of balances and reserves, having taken account of advice from the Chief Finance Officer as stated in 3.1.1
- 3.4.21 Allocation to and from the balances and reserves will be the responsibility of the Chief Finance Officer in line with the principles that Full Council have agreed.
- 3.4.22 Chief Officers are to indicate, during monthly monitoring, which reserves are likely to be used in year, subject to the Chief Finance Officer approval. For the avoidance of doubt the Chief Finance Officer retains ultimate decision making on the creation, addition to or use of reserves.

- 3.4.23 Any significant change in the planned use of a reserve must be approved by the Policy and Resources Committee.

Budget Monitoring – reporting

- 3.4.24 The Chief Finance Officer will report in detail to Performance and Contract Management Committee at the end of each quarter as a minimum, on the revenue and capital budgets and wider financial standing.

- 3.4.25 Reports on the revenue budget will normally include:

- a revised forecast outturn including details as part of which, Chief Officers will inform Performance and Contract Management Committee:
  - i) of those cost centres for which they are responsible that are projecting net overspends or underspends either over £100,000 or over £50,000 where the cost centre's gross budget is less than £1m; and
  - ii) of the actions proposed to ensure that these overspends are not realised and that service delivery is not impacted by underspends.
- advice from the Chief Finance Officer on whether action is required to address any diminution in reserves and, if necessary, proposals and/or options for action that needs to be taken.

- 3.4.26 These reports will make recommendations for varying the approved budget (revenue and capital) in the following circumstances:

- allocations from the central contingency for unplanned expenditure over £250,000, or for planned expenditure where there are significant full year effects;
- underspends and windfall benefits returned to the centre;
- increases in service revenue budgets where overspends are considered unavoidable and cannot be contained within the overall budget managed by a Chief Officer;
- variations in capital project budgets;
- additions to the capital programme outside of the main budget cycle.

3.4.27 Full Year Effects

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

3.4.28 Annual Governance Statement

Chief Officers must support the work on corporate risk management led by the Monitoring Officer, contributing to the production of the Annual Governance Statement that has to be published alongside the Statement of Accounts. Details of this are set out in the Code of Corporate Governance.

3.4.29 Partnership Working

Before entering into a partnership with another organisation that involves pooling some of the Council's revenue and/or capital budgets, the Chief Officer in consultation with the Chief Finance Officer must ensure that adequate financial

controls are in place. A financial risk assessment must also be prepared and monitored over time.

#### 3.4.30 General Requirements

Chief Officers must consult the Chief Finance Officer at an early stage on any current or future matter or decision that has financial implications that are not incorporated in the Financial Forward Plan or could impact on the Medium Term Financial Strategy.

#### 3.4.31 Authorisation of Non-Budgeted Expenditure (Emergency Payments)

Emergency payments may arise as a consequence of unforeseen circumstances (e.g. as a consequence of a natural disaster, a civil emergency or a court order etc.) where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget.

#### 3.4.32 Emergency payments can only be made in extenuating circumstances with the following approval (as a minimum):

- Up to £500,000 Strategic Commissioning Board (SCB) member  
SCB member will notify the Chief Finance Officer as soon as practicable that the emergency payment has been made.
- Over £500,000 Chief Executive Officer or Chief Finance Officer following consultation with the Leader of the Council.

#### 3.4.33 In all circumstances, the expenditure must be consistent with the Corporate Plan and management agreements and should be reported to the next Performance and Contract Management Committee meeting.

#### 3.4.34 The Chief Finance Officer may approve revenue or capital expenditure not provided for within the latest approved budget if satisfied that:

- the expenditure is wholly reimbursable to the Council; or
- compensatory savings have been identified; and
- there are no significant full year effects.

### **3.5 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS**

#### 3.5.1 The Chief Finance Officer is responsible for making arrangements for closing the Council's and the Pension Fund accounts and producing the annual Statement of Accounts, as well as all matters relating to their audit and public inspection.

#### 3.5.2 Chief Officers are responsible for ensuring that they and their staff adhere to the timetable and requirements set out by the Chief Finance Officer (for the closing of accounts, and provide any information and evidence required in relation to this.

#### 3.5.3 The Statement of Accounts will be prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting and Local Authority Accounting Panel

(LAAP) bulletins, and Accounts and Audit Regulations 2015 which includes the deadline for their production and the requirement to include an Annual Governance Statement (AGS).

- 3.5.4 Chief Officers must provide on time any information and evidence the Chief Finance Officer requires to close the accounts and complete all grant and subsidy claims.
- 3.5.5 In closing the accounts, the Chief Finance Officer may amend the originally approved funding of revenue and capital services and projects if this is to the Council's financial benefit.
- 3.5.6 In accordance with International Standard on Auditing (ISA) 260, the external auditor is required to issue detailed reports to those charged with governance on matters arising from the audit of the Council's accounts and Pension Fund accounts. There is also an Annual Audit Letter which includes the external auditor's report and opinion on the audit of the accounts, as well as comments and recommendations on whether the Council provides Value for Money.

### **3.6 TREASURY MANAGEMENT FRAMEWORK**

- 3.6.1 The Council adopts the key recommendations contained in "The Prudential Code for Capital Finance in Local Authorities – fully revised second edition (CIPFA, 2009), "Treasury Management in the Public Services: Code of Practice and cross sectoral guidance notes (CIPFA, 2009) and any subsequent recommended good practice by CIPFA.
- 3.6.2 Adherence to Prudential Code and Treasury Management Code of Practice  
The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services Code of Practice, as described in Section 4 of that code.
- 3.6.3 Policy and Resources Committee will create and maintain a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities.
- 3.6.4 The Chief Finance Officer will create and maintain suitable Treasury Management Practices, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 3.6.5 The Performance and Contract Management Committee will receive reports on its treasury management policies, practices and activities. These reports will incorporate the prudential borrowing limits and performance indicators. Policy and Resources Committee will receive an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the Treasury Management Practices.
- 3.6.6 The Chief Finance Officer has the delegated authority to undertake long term borrowing on behalf of the Authority and will issue a Delegated Powers Report immediately after this power is exercised to inform Members in consultation with

the Chairman of the Policy and Resources Committee and reported to the next meeting of the Policy and Resources Committee.

- 3.6.7 The Council delegates responsibility for the implementation and the monitoring of its treasury management policies and practices to Performance and Contract Management Committee and the updating of the Treasury Management Practices, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement and Treasury Management Practices and CIPFA's Standard of Professional Practices on Treasury Management.

### **3.7 PENSION FUND MANAGEMENT**

- 3.7.1 The Chief Finance Officer is responsible for, or responsible for delegating authority for:

- approving early payment of deferred benefits under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations
- exercising discretion on compassionate grounds not to actuarially reduce deferred benefits paid early under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations;
- exercising the power to accept late applications (made more than 30 days after return to work or, if does not return to work, 30 days after the date of leaving) from a member who wishes to pay optional contributions for a period of absence (Regulation 22 of the Administration Regulations);
- informing a member, who is entitled to a pension or retirement grant under two or more provisions, which provision shall apply (Regulation 34 of the 1997 Regulations – no double entitlement);
- determining that late applications to convert scheme additional voluntary contributions (AVCs) into a membership credit will be accepted provided such a late claim is not made within one year of attaining normal retirement date (NRD) or six months after leaving service whichever is the later (Regulation 26 of the Administration Regulations).
- determining (for Barnet Council Employees only) whether to accept any request for the inwards transfer of pension rights made more than 12 months after the member joined the Scheme (Regulation 83 of the Administration Regulations).
- determining (for Barnet Council employees only) whether to accept any request for joining previous Scheme membership (either with this Employer and/or with another scheme employer) made more than 12 months after the member re-joined the Scheme (Regulation 16 of the Administration Regulations).
- exercising absolute discretion in determining the recipient(s) of any death grant payable from the Scheme (Regulations 23, 32 and 35 of the Benefits Regulations);
- deciding whether to treat education or training as continuous despite a break for the purpose of determining eligibility for a child's pension (Regulation 26 of the Benefits Regulations);
- communicating with other employers that are scheduled or admitted bodies as appropriate



## **4. FINANCIAL ADMINISTRATION, SYSTEMS AND PROCEDURES**

### **4.1 ACCOUNTING**

- 4.1.1 All accounting arrangements across the council shall be in a manner approved by the Chief Finance Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and national guidance.
- 4.1.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 4.1.3 All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer.

### **4.2 BANKING ARRANGEMENTS**

- 4.2.1 The Chief Finance Officer must approve all banking and card acquiring arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.
- 4.2.2 The Chief Finance Officer will maintain a register of all bank and card acquiring contracts.
- 4.2.3 Cheques above certain financial limits set by the Chief Finance Officer shall be manually countersigned by those designated officers authorised to do so by the Chief Finance Officer.
- 4.2.4 The Chief Finance Officer will be responsible for ensuring that the Council's banking arrangements are reviewed on a regular basis and that the banking contract is reviewed every three years.
- 4.2.5 Chief Officers are responsible for ensuring that the any staff in their areas that use the Procurement Cards adhere to the requirements of the LBB Purchasing Card (PCard) Guide and Terms and Conditions.

### **4.3 ASSETS**

- 4.3.1 Chief Officers are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.
- 4.3.2 Maximum limits for cash holdings shall be set by the Chief Finance Officer, which may not be exceeded without prior authority. Areas where cash is counted and held must be secure and with access restricted only to authorised staff.
- 4.3.3 Chief Officers are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals in excess of

£6,000 (or a higher figure that is consistent with capital accounting regulations) are to be notified to the Chief Finance Officer.

4.3.4 The Council has set a *de minimis* threshold for capital expenditure at £50,000. This figure provides guidance only; the Chief Finance Officer may exercise discretion on the *de minimis* threshold.

4.3.5 Chief Officers are responsible for implementing a system for the maintenance of stocks and stores including regular stock checks and write offs when required.

#### **4.4 IMPREST ACCOUNTS**

4.4.1 The Chief Finance Officer must authorise all imprest accounts.

4.4.2 The imprest account holder must:

- provide a certificate showing the state of the account at the end of the financial year and additionally when requested by the Chief Finance Officer;
- only reimburse expenditure up to a limit set by the Chief Finance Officer;
- obtain receipts for all payments made, which will be proper VAT receipts;
- properly account for VAT in all float reimbursements;
- not allow the account to be overdrawn and shall arrange for reimbursement at regular intervals;
- not pay any salaries, wages or allowances from the account;
- not pay income into the account;
- provide the Chief Finance Officer with a full account for the advance when ceasing to be the imprest account holder.

#### **4.5 INCOME**

4.5.1 The Council will charge for all services, where allowable, and have charging policies in place.

4.5.2 Officers should encourage payment in advance or at point of service delivery wherever possible as per the Debt Management Policy, and minimise the amount of credit given to customers.

4.5.3 All records relating to income due to the Council, accounts raised, and receipts issued shall be in a format agreed by the Chief Finance Officer.

4.5.4 Officers responsible for controlled stationery must keep it secure. Methods of payment must be agreed by the Chief Finance Officer.

4.5.5 The Chief Finance Officer, or officer nominated by the Chief Finance Officer, may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Debt Management Policy.

4.5.6 Officers receiving monies shall keep an accurate and chronological account of all receipts and bankings.

4.5.7 Monies received must be banked on the day of receipt wherever possible, and not later than the next working day. All amounts paid in must be referenced to

enable subsequent identification of the accounts to which they relate. All cheques, postal orders etc. shall be crossed with the crossing stamp provided.

- 4.5.8 No deductions may be made from monies received.
- 4.5.9 Chief Officers must notify the Chief Finance Officer of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.
- 4.5.10 Invoicing & Debt Recovery  
Officers responsible for raising invoices must ensure that VAT has been properly accounted for.
- 4.5.11 The Council's Debt Management Policy, approved annually in February by Policy and Resources Committee, sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all services within the London Borough of Barnet.

## **4.6 INSURANCE**

- 4.6.1 The Chief Finance Officer is responsible for maintaining the Insurance Strategy arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered.
- 4.6.2 Chief Officers must notify the Chief Finance Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 4.6.3 Any incident which could give rise to an insurance claim must be promptly notified to the Chief Finance Officer by the relevant officer, who shall also inform the Police if appropriate.
- 4.6.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.
- 4.6.5 Officers must consult the Chief Finance Officer and Monitoring Officer in all cases where the Council is requested to give an indemnity.
- 4.6.6 Officers in receipt of a motor vehicle allowance must produce registration documents, insurance policy, certificate of insurance and test certificate if required by the Chief Finance Officer. Insurance policies must be comprehensive and cover use on official business.
- 4.6.7 Schools  
Where funds for insurance are delegated to any school, the Council may require the school to demonstrate that cover relevant to the Council's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the Council. If the Council makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets, the Council will have regard to the actual risks,

which might reasonably be expected to arise at the school in question in operating this requirement rather than applying an arbitrary minimum level of cover for all schools.

- 4.6.8 It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance may be funded from the school budget share.
- 4.6.9 The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could be charged to the school's budget share.

#### **4.7 INVESTMENTS, BORROWING, CAPITAL FINANCING & TRUST ACCOUNTS**

- 4.7.1 The Chief Finance Officer shall ensure that the Council's money is properly managed and controlled in a way which balances risk with return but with the overriding consideration being given to the security and liquidity of the Council's investment.
- 4.7.2 All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or the Council's Pension Fund or in the name of nominees approved at a Policy and Resources Committee.
- 4.7.3 All securities shall be held securely by the Council's bankers, or custodians approved at the Policy and Resources Committee.
- 4.7.4 The Chief Finance Officer shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.
- 4.7.5 The Chief Finance Officer will set Prudential indicators, as outlined in the Prudential Code for Capital Finance in Local Authorities, for the forthcoming and following two financial years. These will be contained in the Treasury Management Strategy approved by Policy and Resources Committee each February.
- 4.7.6 The Chief Finance Officer will also provide regular monitoring reports to Performance and Contract Management Committee and report any breaches or amendments of the Prudential Code to Council.
- 4.7.7 The Chief Finance Officer will be the Council's registrar of all stocks and bonds. In addition this officer will maintain a register of all loans and investments made in the name of the Council.
- 4.7.8 The Chief Finance Officer shall ensure that all legislative amendments and changes in treasury or capital limits are approved at Policy and Resources Committee and where necessary full Council.

## 4.8 ORDERING OF SUPPLIES, WORKS & SERVICES

- 4.8.1 Procurement of supplies, works and services must be in accordance with Contract Procedure Rules. It is a disciplinary offence to fail to comply with Contract Procedure Rules when letting contracts. Council employees have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer. The procedures for initiating procurement activity, for authorising and accepting tenders and the financial limits for procurement are set out in the Contract Procedure Rules and are not repeated here.
- 4.8.2 With respect to third party organisations, if a supplier is awarded business in excess of 25% of their turnover, then a risk assessment needs to be carried out to ensure that the supplier is not overly dependant on the Council. Where the supplier is a consortium, the relevant figure is the combined turnover of the consortium's constituent members.
- 4.8.3 Chief Officers are responsible for all contracts tendered and let by their service areas. Their duties in relation to contract letting and management are:
- to ensure compliance with English Law, U.K. and EU legislation and Council policy;
  - to ensure value for money and optimise risk allocation in all procurement matters;
  - to ensure compliance with the Contract Procedure Rules
- 4.8.4 Chief Officers must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available.
- 4.8.5 **Creation of a purchase Order (PO):** Once the purchase has been agreed, a purchase order must be raised on the council's accounting system. **Payment of an invoice:** Authorised officers must ensure that a purchase order has been raised on the accounting system and successfully communicated to the supplier. Invoices in respect to works, supplies and services will be paid by the Central Accounts Payable Team, but only after the authorising officer has, where necessary, first receipted the supply on the accounting system.
- 4.8.6 All invoices must reference a valid purchase order number, otherwise the Central Accounts Payable Team reserves the right to refuse payment of an invoice.
- 4.8.7 Only invoices presented in an acceptable format will be passed for payment. This includes invoices that do not comply with VAT Regulations. VAT is only recoverable by the Council if a proper VAT invoice is made out in the name of the the Council.
- 4.8.8 To enable the Council to comply with the Late Payment of Commercial Debts Regulations, no amended invoices will be accepted. Chief Officers must ensure that their services must return an invoice to the supplier and seek a new invoice with a revised date, whenever:-

- the invoice is dated prior to receipt of supplies, works or services and this is contrary to the agreed payment terms;
  - the invoice is incorrect;
  - the invoice does not reference a valid Purchase Order number.
- 4.8.9 When certifying an invoice for payment that was initially disputed, record the date on which the invoice was actually validated must be recorded
- 4.8.10 The Central Accounts Payable Team will perform a three-way match against the purchase order, goods receipt and invoice, prior to making a payment. Invoices from trusted suppliers, (as advised by the Strategic Procurement Team) will only require a two-way match. Invoices that do not pass this criteria will be returned to the service for amendment.
- 4.8.11 **Payments in advance** : Chief Officers prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to the Chief Finance Officer.

## **4.9 SALARIES, PENSIONS & ALLOWANCES**

- 4.9.1 Details of payroll arrangements and responsibilities are set out in the HR Regulations.

## **4.10 TAXATION**

- 4.10.1 The Chief Finance Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence its own activities, or indirectly, as a consequence of service delivery through external partners.
- 4.10.2 The Chief Finance Officer is responsible for advising Chief Officers on all taxation issues that affect the Council, in the light of guidance issued by appropriate bodies and relevant legislation as it applies.
- 4.10.3 To enable the Chief Finance Officer to fulfil the requirements of this role, Chief Officers will:
- (i) Ensure that the Chief Finance Officer is consulted on all proposals that may alter or affect the Council's tax liability, including proposals to implement alternative service delivery models.
  - (ii) Ensure that the VAT guidance issued by the Chief Finance Officer is complied with (i.e. to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed).
  - (iii) Ensure that, where construction and maintenance works are undertaken, the sub-contractor fulfils the necessary construction industry tax scheme requirements (as advised by the Chief Finance Officer).
  - (iv) Ensure that the Chief Finance Officer guidance on fee payments to consultants, individuals or partners is complied with.

- 4.10.4 The Chief Finance Officer is responsible for ensuring that the Council's tax records are maintained, all tax payments are made, tax credits are received and tax returns are submitted by their due date, as appropriate.

#### **4.11 AMENITY & UNOFFICIAL FUNDS**

- 4.11.1 Amenity or Unofficial Fund relates to all sums of money other than those which are required to be paid into the Council's General Bank Account (or such other account so authorised by the Chief Finance Officer) or Trust Fund monies outside the authority of the Council.
- 4.11.2 All accounts shall be opened by the Chief Finance Officer and their names shall include the name of the London Borough of Barnet and the establishment concerned.
- 4.11.3 Provided the Chief Finance Officer approves and is satisfied with accounting and security arrangements, separate accounts need not be opened for funds of small amounts.
- 4.11.4 The head of each establishment which sets up such a fund shall inform the relevant Chief Officer of its existence.
- 4.11.5 Responsibility for the administration of the fund shall rest with the head of the establishment and with such other member(s) of staff as that person shall decide.
- 4.11.6 Expenditure from the fund shall be at the discretion of the establishment head in conjunction with other member(s) of staff as felt necessary.
- 4.11.7 Cheques shall be signed and countersigned by the head and deputies of the establishment. All transactions above a limit set by the Chief Finance Officer shall be signed by at least two authorised officers.
- 4.11.8 Auditors shall be appointed by the head of the establishment and the fee (if any) shall be charged to the fund. Where the turnover of the fund exceeds an amount set by the Chief Finance Officer, the fund must be audited by auditors approved by that officer. The Chief Finance Officer shall have the right to inspect the accounts.
- 4.11.9 At the end of each financial year the head shall submit an audited summary of the fund to the Chief Finance Officer (and Governing Body if appropriate).

### **5 RISK MANAGEMENT AND CONTROL OF RESOURCES**

#### **5.1 RISK MANAGEMENT**

- 5.1.1 The Performance and Contract Monitoring Committee is responsible for approving the Council's risk management framework and for reviewing the effectiveness of risk management. Individual services are responsible for ensuring the proper management of risk.

- 5.1.2 Chief Officers are responsible for ensuring that they and their staff uphold the requirements of the Corporate Risk Management Framework.

## **5.2 INTERNAL CONTROL**

- 5.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 5.2.2 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 5.2.3 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

## **5.3 INTERNAL AUDIT**

- 5.3.1 Under the Accounts and Audit Regulations 2015 the Council has a statutory obligation to have an adequate and effective system of internal audit. The Assurance Director has the delegated authority for providing and maintaining this service.
- 5.3.2 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.
- 5.3.3 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.'
- 5.3.4 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.

5.3.5 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.

#### 5.3.6 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.

5.3.7 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.

- 5.3.8 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.
- 5.3.9 The Chief Internal Auditor shall be able to meet the Chairman of the Audit Committee alone outside of the normal Audit Committee meetings.
- 5.3.10 Responsibility & Authority  
Internal Audit is an integral part of the organisation and functions under the policies established by management and the Council.
- 5.3.11 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.
- 5.3.12 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.
- 5.3.13 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.

#### **5.4 CORPORATE ANTI-FRAUD TEAM (CAFT)**

- 5.4.1 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 Director has the delegated authority for providing and maintaining this service.
- 5.4.2 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.
- 5.4.3 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.
- 5.4.4 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.

5.4.5 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")
- provide an effective, efficient and value for money investigation service;
- Where appropriate provide the organisation, its employees and business partners with a advice in relevant areas such as fraud, corruption, bribery and anti money laundering and other legislation relating to the proceeds of crime.

5.4.6 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.

5.4.7 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.

5.4.8 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 Director, the Chief Internal Auditor or any member of the CAFT.

5.4.9 The Assurance Director will maintain a scheme of delegation that will set out duties and responsibilities in relation to counter fraud activities.

5.4.10 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:

5.4.11 CAFT or other authorised representative 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).

## **5.5 EXTERNAL AUDIT**

- 5.5.1 Public Sector Audit Appointments Limited (replaced the Audit Commission with effect from 1 April 2015) is responsible for appointing external auditors to each local authority. The duties of the external auditor are governed by section 5 of the Audit Commission Act 1998.
- 5.5.2 The Local Audit and Accountability Act 2014 established transitional arrangements for the appointment of external auditors and the setting of audit fees for all local government in England which cover the audit of accounts up to 2018/19.
- 5.5.3 External auditors have a responsibility to satisfy themselves that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. This judgement is based on criteria specified by the National Audit Office. The Chief Finance Officer, in conjunction with Chief Officers, must ensure that the Council makes best use of resources and taxpayers and / or service users receive value for money.
- 5.5.4 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## **6. TRADING ACCOUNTS**

- 6.1 As the Council continues to develop its commissioning model alongside a more commercial culture, trading accounts and business unit charging are becoming increasingly important.

- 6.2 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units, where appropriate.
- 6.3 Where consideration is being given to the introduction of charges for discretionary services or to utilising a trading power the relevant Chief Officer must consult with the Chief Finance Officer and Legal Services on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the relevant theme committee.
- 6.4 The Chief Officer must observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to include all relevant income and expenditure, including overhead charged and an annual report in support of the final accounts.
- 6.5 The Chief Officer must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **7. EXTERNAL ARRANGEMENTS**

### **7.1 PARTNERSHIPS**

- 7.1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It may also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.
- 7.1.2 Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project, this is not a partnership.
- 7.1.3 It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Council's Procurement Policy and Procedures.
- 7.1.4 Chief Officers are responsible for ensuring that appropriate work is undertaken and approvals are obtained before any negotiations are concluded in relation to work with external bodies, these include:
- (i) The approval of the Chief Finance Officer and the Monitoring Officer prior to entering into a partnership agreement.
  - (ii) An appraisal which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks.

- (iii) Demonstrating that the partnership agreement and arrangements will not impact adversely upon the services provided by the Council or upon its finances.
- (iv) The proposed financial contribution by the Council to the partnership can be met from existing budget provision.
- (v) Policy and Resources or Council (where appropriate) approval is secured for all delegations and frameworks for the proposed partnership.

7.1.5 The approval of both the Chief Finance Officer and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Chief Finance Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership. This is to ensure that the:

- (i) Legal status and financial viability of the arrangement are clearly established and acceptable.
- (ii) The Council's financial commitment to the partnership is quantified and that this can be accommodated within the existing budget provision.
- (iii) Financial and corporate governance arrangements in place for the partnership are robust, and acceptable from the Council's perspective.
- (iv) The Council is not exposed to undue financial, legal or reputational risk as a consequence of its involvement in the partnership.
- (v) The Council's own financial accounting and reporting requirements can be satisfied.

7.1.6 A written partnership agreement must be produced that clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership. The document must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend.

#### Delegation of budget to a partnership

7.1.7 The delegation of budget to a partnership (whether or not the arrangement is binding on the parties), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval as follows:

- Up to £500,000                      Chief Officers  
following consultation with the Chief Finance Officer.
- Up to £5m                              Chief Executive Officer or Chief Finance Officer  
following consultation with the Leader of the Council.
- More than £5m                      Policy and Resources Committee  
following consultation with all of the above.

7.1.8 Where the Council is the 'accountable body' for a partnership, these Financial Regulations apply to decisions relating to the expending of that money. All

expenditure must be authorised by an appropriate London Borough of Barnet officer, or by someone else who has a statutory power to authorise expenditure.

7.1.9 Chief Officers are responsible for ensuring that the Council is promoting and applying the same high standards of financial administration to the partnership that apply throughout the Council.

7.1.10 Chief Officers must provide information on the partnership arrangements to the Chief Finance Officer, to enable the appropriate disclosures to be made within the Council's annual Statement of Accounts.

## **7.2 EXTERNAL FUNDING**

7.2.1 External funding is potentially a very important source of income; however funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.

7.2.2 External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals, from either public or private sources.

7.2.3 Chief Officers, in consultation with the Chief Finance Officer, should develop their External Funding Strategy to explore all feasible options that maximise external funding available to the Council. Their strategy should cover the principles which the Council will apply to generating additional funding via making bids to the Government and other funding bodies and the proper processes for obtaining necessary approvals. It is particularly important to ensure that approved resources are available for any 'match funding' requirements prior to entering into any agreements.

7.2.4 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

7.2.5 Chief Officers must provide the Chief Finance Officer with details of all bids for external funding. Bids will follow the requirements of the Council's investment appraisal process. In particular, the following information must be provided:

- How the bid supports achievement of Corporate Plan targets;
- Whether the bid is for capital and/or revenue funding;
- Revenue and capital matched funding contributions required from the Council, and how these will be identified;
- Revenue and capital matched funding contributions required from other organisations and individuals, how these amounts will be secured, and the risks associated with them;
- An 'exit strategy', which sets out how budgets will be adjusted after the grant expires;
- Where the bid is for revenue funding:-
  - whether this is to support existing levels of activity or enhanced / new activities;

- proposals for reducing the activity OR incorporating it in the base budget once the external funding is exhausted;
  - Where the bid is for capital funding:-
    - whether an asset will be created, and if so, how this fits in with the Council's Strategy;
    - how the ongoing cost of maintaining the asset will be funded;
    - whether the asset can / will be disposed of at a later date.
- 7.2.6 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Finance Officer. Decisions to proceed ahead of confirming external funding will be taken after assessing all relevant risks. The Chief Finance Officer has the right to refer the decision to the Policy and Resources Committee.
- 7.2.7 Where external funding is applied for, it is the responsibility of the Chief Officer to ensure that the monies are received from the paying body and, wherever possible, received ahead of the planned expenditure being incurred by the Council.
- 7.2.8 Chief Officers must advise the Chief Finance Officer of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and should in the first instance be returned to the central contingency unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where the amount notified is less than the budget, the Director or Head of Service must notify the Chief Finance Officer of options for containing any potential overspend.
- 7.2.9 Chief Officers must ensure that all conditions associated with external funding are met and that information and evidence required to complete grant and subsidy claims are provided on time.
- 7.2.10 Chief Officers are responsible for ensuring that they comply with all requirements for the audit of external funding where applicable.

### **7.3 WORK FOR THIRD PARTIES**

- 7.3.1 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work. Where such legal powers exist, Chief Officers are responsible for:
- (i) Approving the contractual arrangements for any work undertaken by their services for third parties or external bodies.
  - (ii) Ensuring that the appropriate expertise exists to fulfil the contract.
  - (iii) Ensuring that no contract adversely impacts upon the services provided by the Council.
  - (iv) Approval will be made after appropriate professional advice, including but not restricted to legal, has been obtained.
- 7.3.2 With regard to the financial aspects of third party contracts, Chief Officers will:



- (i) Comply with any guidance issued by the Chief Finance Officer and will ensure that the appropriate insurance arrangements are made.
- (ii) Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- (iii) Ensure that the Council is not exposed to the risk of bad debts.

7.3.3 A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement. Chief Officers will provide information on the contractual arrangements to the Chief Finance Officer in order that the appropriate disclosures can be made within the Council's annual statement of accounts.

7.3.4 Performance and Contract Management (PCM) Committee is responsible for monitoring the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000.

## **7.4 ALTERNATIVE DELIVERY MODELS**

7.4.1 Services may be commissioned from retained services within the Council or via alternative delivery models. There are various types of alternative delivery model, including, but not limited to:

- (i) Local Authority Trading Company (LATC) – a separate legal entity in which the Council has an interest that trades for profit with both public and private bodies. An LATC could have a number of legal forms including a company limited by shares, a company limited by guarantee, a community benefit society or a cooperative society.
- (ii) Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking. They are able to trade for profit.
- (iii) Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission; surpluses are reinvested in the company.
- (iv) Social Enterprises - businesses trading for social and environmental purposes.
- (v) Outsourcing – a contractual arrangement between the Council and a private provider for the delivery of an agreed service, which involves the transfer of Council staff to the private provider. The outsourced provider can charge its customers and make a profit.
- (vi) Social Impact Bonds – contract to achieve agreed social outcomes through a programme of interventions delivered by a number of service providers.
- (vii) Joint Committee – joint bodies set up, by agreement, to discharge or carry out activities in conjunction with others.
- (viii) Unincorporated association – pooling of resources with other public sector bodies as a means of facilitating joint working in the provision of services.

7.4.2 This above list is not intended to be exhaustive, but is provided to illustrate the range and diversity of alternative service delivery models.

- 7.4.3 Any proposal to commission services via an alternative delivery vehicle must be developed through the Council's business case governance framework and using the business case template, to ensure that there is a robust planning and decision-making process in place.
- 7.4.4 The business case must clearly articulate the options being considered and measure these against the desired outcomes. It should also set out whether there is a statutory basis for the provision of the service or activity under consideration.
- 7.4.5 Chief Officers are responsible for ensuring that the Council's governance framework is followed through all stages of the business case development and decision making process, and that specialist advice is sought from the following key stakeholders across the Council, at each stage in the development of the business case:
- (i) Chief Finance Officer (including financial, cash management and tax advice);
  - (ii) Director of Assurance (including Monitoring Officer, Internal Audit and Organisational Risk advice);
  - (iii) Director of Commercial Services;
  - (iv) Director of Human Resources and Assistant Director of Finance (Customer Services Group) (including HR, payroll, pensions administration, purchase to pay, income collection).
- 7.4.6 Chief Officers are responsible for ensuring that committee approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

## **8. TRANSPARENCY**

- 8.1.1 To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending, regardless of value. Monthly payment transactions made via purchase card, employee expenses and accounts payable are available to download via the Council's Open Barnet data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access.  
<http://open.barnet.gov.uk/>

## Financial Regulations

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## 8. Transparency

The Financial Regulations should be read in conjunction with the Budget and Policy Framework and Procedure Rules.

## 1. Introduction

1.1 The London Borough of Barnet Council needs to ensure that it has sound financial management policies in place and that they are strictly adhered to.

1.2 The Financial Regulations provide the framework for managing the financial affairs of the Council. These Financial Regulations apply to all members, officers, contractors and partners in the work they do for the Council.

1.3 The Director of Resources, in the role as Chief Finance Officer, has statutory duties in relation to the financial administration and stewardship of the Council.

1.4 Throughout these Financial Regulations, the title Chief Finance Officer will be used to denote the designated 'Section 151 Officer' of the Council, including Nominated Deputy. This statutory responsibility cannot be over-ridden and arises from Section 151 of the Local Government Act 1972 and Section 112 of the Local Government Finance Act 1988.

1.5 Key legislation within this statutory framework includes but is not limited to:

- Local Government Finance Act 1988
- Local Government and Housing Act 1989
- Local Government Act 2003
- Accounts and Audit Regulations 2015

1.6 More specifically, under the statutory framework outlined above, the Chief Finance Officer is responsible for:

- The proper administration of the Council's financial affairs
- Setting of, and monitoring compliance with, financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information
- Preparing the revenue budget and capital programme (in conjunction with Chief Officers)
- Treasury management
- Reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered

1.7 Section 114 of the Local Government Finance Act 1988 requires that the Chief Finance Officer, in consultation with the Head of Paid Service and the Monitoring Officer, must inform all Members and external auditors if the Council or one of its officers:

- Has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful
- Has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Authority, or
- Is about to enter an item of account, the entry of which is unlawful.

1.8 Section 114 also requires the Chief Finance Officer to:

- Make a report if it appears to he/she that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure. If a section 114 notice is issued, the Full Council must (under section 115) meet within 21 days to consider the notice.
- Nominate a properly qualified deputy to deputise should he/she be unable to perform the duties under Section 114 personally. The Council must provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

1.9 The Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts. These aspects are set out in section 43: Financial Planning and Financial Management.

1.102 The Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised. These aspects are set out in section 54: Financial Administration, Systems and Procedures.

## **2. Status of Financial Regulations**

2.1 ~~Financial regulations apply to every member and officer of the authority and anyone acting on its behalf. All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.~~

2.2 ~~The responsibilities of the Chief Finance Officer are discharged by the Chief Operating Officer. Thus this post is responsible for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972 (and all subsequent amendments). This includes responsibility for producing and updating these Financial Regulations.~~

2.3 ~~The Scheme for Financing Schools governs School Governors, Headteachers and school staff of Maintained schools with delegated budgets. In these cases the Financial Regulations do not apply.~~

2.4 ~~Where applicable consultants or agencies acting for the Council will be bound by these procedures and it should be a condition of their employment or engagement that they do so.~~

2.5 ~~This should be used in conjunction with other points of the constitution, legal requirements and other codes of practice.~~

2.6 ~~Chief Officers are responsible for ensuring that all staff in their departments are made aware of the existence and content of the authority's Financial Regulations and other internal regulatory documents, and that they comply with them. They must also ensure that either hard or electronic copies are available for reference within their departments.~~

- ~~2.7 Substantial breaches of Financial Regulations shall be reported to the Chief Finance Officer (section 151 officer) by the relevant Chief Officer and may be treated as disciplinary offences. Where the Chief Finance Officer (section 151 officer) considers it appropriate he/she will report to the next meeting of the Audit Committee any substantial breach of these Regulations that is identified.~~
- ~~2.8 These Financial Regulations shall not override any statutory provisions that apply.~~
- ~~2.9 The Chief Finance Officer (section 151 officer) shall be responsible for ensuring that the Council's continuing compliance with the Accounts and Audit Regulations 2011 and all relevant Accounting Codes of Practice and Auditing Standards.~~
- ~~2.10 These procedures shall be reviewed regularly by the Chief Finance Officer (section 151 officer) but at least every three years. The Constitution, Ethics and Probity Committee approve all amendments and summaries of changes resulting from the review. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.~~
- ~~2.11 The Chief Finance Officer (section 151 officer) is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the authority are required to follow.~~
- ~~2.12 Each Chief Officer is required to maintain a scheme of financial delegation in accordance with the minimum standards as determined by the Chief Finance Officer (section 151 Officer) or Nominated Deputy, and which accords to the financial limits included within the overall scheme of delegation and contract rules.~~

## **23. Responsibilities**

- 23.1 Financial regulations apply to every member and officer of the authority and anyone acting on its behalf (including contractors and partners). All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 2.2 Consultants or agencies acting for the Council will be bound by these procedures, where applicable, and it should be a condition of their employment or engagement that they do so.
- 2.3 The Scheme for Financing Schools, which follows the requirements of the School Standards and Framework Act 1998, governs School Governors, Headteachers and school staff of Maintained schools with delegated budgets. A local financial guide for schools supplements the Scheme for Financing Schools. In these cases the Financial Regulations do not apply. Each school is required to have a financial management policy and procedures document.

- 2.4 Chief Officers (the term used to cover all Directors and Departmental Heads/Managers) are responsible for ensuring that all staff in their departments are made aware of the existence and content of the authority's Financial Regulations and other internal regulatory documents, and that they comply with them. They must also ensure that either hard or electronic copies are available for reference within their departments.
- 2.5 Each Chief Officer is required to maintain a scheme of financial delegation in accordance with the minimum standards as determined by the Chief Finance Officer or Nominated Deputy, operating in support of the operational budget holder, and which accords to the financial limits included within the overall scheme of delegation and Contract Procedure Rules.
- 2.6 It is the responsibility of each Chief Officer to consult with the Chief Finance Officer and seek advice and/or approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.
- 2.7 Substantial breaches of Financial Regulations shall be reported to the Chief Finance Officer ~~(section 151 officer)~~ by the relevant Chief Officer and may be treated as disciplinary offences. Where the Chief Finance Officer ~~(section 151 officer)~~ considers it appropriate he/she will report to the next meeting of the Audit Committee any substantial breach of these Regulations that is identified.
- 2.8 These Financial Regulations shall not override any statutory provisions that apply.
- 2.9 These procedures shall be reviewed regularly by the Chief Finance Officer ~~(section 151 officer)~~ but at least every three years. The Constitution, Ethics and Probity Committee approve all amendments and summaries of changes resulting from the review. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.
- 2.10 The Chief Finance Officer ~~(section 151 officer)~~ is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the authority are required to follow.
- 2.11 The Chief Finance Officer shall be responsible for ensuring the Council's continuing compliance with the Accounts and Audit Regulations 2015 and all relevant Accounting Codes of Practice and Auditing Statements.
- 2.12 The Chief Finance Officer is required to control and be responsible for the accounts and finances of the Council in every respect and ensure, as far as possible, that consistent financial systems operate throughout the entire operation of the Council.



~~Section 151 of the Local Government Act 1972 states that each local authority “shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.~~

~~3.2 The “arrangements” include the Council’s Financial Regulations, Contract Procedure Rules and the Scheme of Delegation (so far as it relates to financial matters). In approving those arrangements, Members are bound by the general principles of administrative law. The Council has an appointed Chief Finance Officer (Section 151 Officer). In performing his/her functions as the appointed officer, he/she shall seek to ensure that the management of the Council’s financial affairs accord with the arrangements approved by Council subject to his overarching statutory duties. The Chief Finance Officer (section 151 officer) owes a fiduciary duty to the public to carry out those duties effectively and these cannot be overridden by the Council.~~

~~3.3 The responsibilities of the Council and Committees are set out in the Constitution: Responsibility for Functions.~~

### **3.4. FINANCIAL PLANNING AND FINANCIAL MANAGEMENT**

#### **3.14.1 BUDGET STRATEGY**

3.1.14.1.1 The Budget Strategy, approved by Full Council, sets out the Council’s approach on a range of issues, including:

- the way in which corporate service priorities are considered as part of the Council’s capital and revenue budget processes;
- the level of balances and reserves (having taken account of advice from the Chief Finance Officer ~~(section 151 officer)~~);
- the management of financial risks

3.1.2 The Council’s policies for the recovery of debt, which do not form part of the budget strategy are separately approved by the Policy and Resources Committee. The setting of fees and charges which do not form part of the budget strategy are separately approved by the relevant thematic committee.

3.1.34.1.2 The Budget Strategy and Medium Term Financial Strategy will normally be recommended by the Policy and Resources Committee to Full Council for approval at the start of each financial year.

#### **3.24.2 MEDIUM TERM FINANCIAL STRATEGY**

43.2.1 The Chief Finance Officer ~~(section 151 officer)~~, in consultation with the Chairman of the Policy and Resources Committee, will maintain a Medium Term Financial Strategy that covers a period of at least three financial years, including the current financial year.

43.2.2 The Medium Term Financial Strategy will be produced and reported in conjunction with the annual budget, council tax and rent proposals to the Policy and Resources Committee and Full Council before 11 March of the preceding

financial year. Further updates on the Medium Term Financial Strategy may be reported during the year.

**43.2.3** The Financial Forward Plan will cover revenue and capital budgets, and will highlight how resources are being re-directed to address Corporate Plan priorities.

**43.2.4** In respect ~~to~~of resources, the Medium Term Financial Strategy will take account of the following:

- forecasts of formula, business rates and specific grants;
- increases in fees and charges, and the introduction of new charges;
- interest earnings and payable;
- levels of reserves and balances;
- increased income from rents and council tax;
- capital receipts and grants.

**43.2.5** In respect ~~to~~of expenditure, the Medium Term Financial Strategy will take account of the following:

- full year effects of previous decisions;
- changes in responsibility arising from new or amended legislation or regulations, net of increased income from new fees and charges;
- re-direction of resources to achieving Corporate Plan priorities and targets and away from non priority areas;
- forecast changes in service demand;
- forecasts of inflation, pay awards and interest rates;
- efficiency savings;
- planned service reductions;
- prudential borrowing;
- financial risks.

**43.2.6** In that the Medium Term Financial Strategy spans a number of years , it is to be expected that figures in later years will often be preliminary estimates and/or aspirations of future decisions and changes in council policy.

### **43.3 ANNUAL BUDGET SETTING**

**43.3.1** The Council will publish a draft budget for consultation. Arrangements for budget consultation will be determined by the Council.

**43.3.2** The Chief Finance Officer ~~(section 151 officer)~~ will set the council tax base for tax-setting purposes before 31 January of the preceding financial year, and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer ~~(section 151 officer)~~ will ~~\_, at the same time,~~ notify all Council Members via the Policy and Resources Committee and Full Council.

**43.3.3** The Policy and Resources Committee will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in

February, following announcement of the Final Local Government Finance Settlement. Theme Committees will work up proposals for consideration by the Policy and Resources Committee.

43.3.4 Policy and Resources Committee's recommendations to Council must be made in time for Council to set the capital and revenue budget and council tax before 11 March of the preceding financial year.

43.3.5 The budget and capital programme that Policy and Resources Committee recommends to Council must be based on reasonable estimates of expenditure and income, and take account of:

- outturn forecasts for the current year;
- guidance from the Chief Finance Officer (~~section 151 officer~~) on the appropriate level of reserves, balances and contingencies;
- financial risks associated with proposed budget developments, reductions and ongoing projects;
- forecasts of capital receipts;
- affordability of prudential borrowing over the period of the council's financial forward plan;
- ~~comments recommendations~~ from the external auditor on matters such as the level of reserves and provisions.

43.3.6 The Chief Finance Officer (~~section 151 officer~~) shall advise the Council whether s/he is able to certify that the draft Budget contains robust estimates and reserves for the purpose of meeting the requirements of Section 25 of the Local Government Act 2003.

### 3.3.7– Fees and Charges

The budget recommended by Policy and Resources Committee will incorporate the latest projection of income from fees and charges.

43.3.8 For the fees and charges within their remit, theme Committees, Planning Committee and Licensing Committee must approve changes to fees and charges that are above CPI inflation by 2% or more, the introduction of new fees and charges, and changes to fees and charges outside the normal annual cycle.

43.3.9 Changes to fees and charges approved by theme Committees, Planning Committee and Licensing Committee must be reported to Policy and Resources Committee for noting.

43.3.10 Chief Officers may approve changes to fees and charges annually where the change is broadly in line with inflation. The date for annual increases need not be 1 April.

### Capital Programme and Budget

3.3.11 The Capital Programme has been developed following these principles:

- To maintain an affordable five-year rolling capital programme.
- To ensure capital resources are aligned with the Council's strategic vision and corporate priorities.

- To undertake prudential borrowing only where there are sufficient monies to meet, in full, the implications of capital expenditure, both borrowing and running costs.
- To maximise available resources by actively seeking appropriate external funding and disposal of surplus assets.

#### **43.3.102**     Alternative Budget Motions

Any member proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy thereof to the Chief Finance Officer ~~(section 151 officer)~~ at least 5 clear days before the Council meeting, so that he/she may advise Council whether the resulting amended or alternative Budget would provide robust estimates and reserves for the purpose of Section 25 of the Local Government Act 2003.

**43.3.113**     The alternative budget motion must set out the appropriate changes to the Policy and Resources Committee's recommendations as they affect the budget for the forthcoming year and any element of the Financial Forward Plan (e.g. balances, full year effects, council tax levels). The Chief Finance Officer ~~(section 151 officer)~~ may also require further information to be included if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.

**43.3.124**     Any Member proposing to put an alternative budget motion to Council is responsible for ensuring it is received by the Head of Governance by the date set by the Head of Governance. It is also their responsibility to ensure they give the Chief Finance Officer ~~(section 151 officer)~~ sufficient reasonable time to fully validate their alternative budget proposals.

**43.3.135**     The Chief Finance Officer ~~(section 151 officer)~~ is responsible for validating any alternative budget motions put forward by Members. ~~The Chief Finance Officer (section 151 officer) may require further information to be included in the proposal if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.~~

### **43.4**     **BUDGET MANAGEMENT & MONITORING**

#### **43.4.1**     Latest Approved Budget

The latest approved budget for a service or capital project is the budget determined by Council prior to the start of the year, as amended subsequently by approved variations in budget and capital financing throughout the year.

**43.4.2**     The Chief Finance Officer ~~(section 151 officer)~~ is responsible for maintaining the latest approved revenue and capital budget in accordance with the scheme of revenue and capital virement as set out below.

#### **43.4.3**     Making changes to the budget

A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets but not between revenue and capital.

3.4.4 The Virement Scheme is intended to enable the Directors and their officers to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

3.4.5 Amendments to the revenue budget can only be made with approval as per the scheme of virement table below:

Virements for allocation from contingency for amounts up to <u>and including</u> £250,000 must be approved by the <u>Chief Finance Officer</u> <del>Section 151 Officer in consultation with appropriate Chief Officer</del>
Virements for allocation from contingency for amounts over £250,000 must be approved by Policy and Resources Committee
Virements within a service that do not alter the bottom line are approved by <u>the</u> Service Director
Virements between services (excluding contingency allocations) up to <u>and including</u> a value of £50,000 must be approved by the relevant Chief Officers <u>s</u>
Virements between services (excluding contingency allocations) over £50,000 and up to <u>and including</u> £250,000 must be approved by <u>the relevant</u> Chief Officer and Chief Finance Officer in consultation with the Chairman of the Policy and Resources Committee and reported to the next meeting of the Policy and Resources Committee
Virements between services (excluding contingency allocations) over £250,000 must be approved by Policy and Resources Committee

3.4.6 No revenue virement is allowed between the following budgets without approval of the Policy and Resource Committee;

- Financing charges,
- Rates and other taxes,
- Recharges and Insurances.

3.4.7 Amendments to the capital budget can only be made with approval as per the table below

<b>Capital Virements</b>
Policy & Resources Committee approval is required for all capital budget and funding virements and yearly profile changes (slippage or accelerated spend) between approved capital programmes i.e. as per the budget book. The report must show the proposed: <ul style="list-style-type: none"> <li>i) Budget transfers between projects and by year;</li> <li>ii) Funding transfers between projects and by year; and</li> <li>iii) A summary based on a template approved by the <u>Chief Finance Officer</u> <del>Section 151 Officer</del></li> </ul>
Policy and Resources Committee approval is required for all capital additions to the

capital programme. Capital additions should also be included in the quarterly budget monitoring report to Performance and Contracts ~~Management~~ Committee for noting. Funding substitutions ~~at year end~~ in order to maximise funding are the responsibility of the ~~Chief Finance Officer~~ Section 151 Officer.

#### 4.4.4 Budget Monitoring

~~3.4.8~~ Chief Officers are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur they should in the first instance be ~~returned~~ transferred to ~~the central~~ contingencies budget unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or other financial benefits are to be used to offset uncontrollable overspends elsewhere within the service. ~~Where these exceptions occur, the~~ the chief officer is responsible for notifying the Chief Finance Officer that this is to occur. Approval to these budget variations will be in line with the scheme of virement.

#### 4.4.6 Budget Monitoring – Revenue

~~4.4.6.13.4.9~~ Chief Officers should ensure that their revenue cost centre managers do not enter into commitments before satisfying themselves there is sufficient approved budget provision. Chief Officers have no authority to overspend revenue budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.

~~4.4.6.2~~ 3.4.10 It is the responsibility of Chief Officers to notify the Chief Finance Officer ~~(section 151 officer)~~ of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income have been identified.

~~3.4.11~~ 4.4.6.3 Having notified the Chief Finance Officer ~~(section 151 officer)~~ of a forecast revenue budget overspend, the Chief Officer must submit proposals to the Chief Finance Officer ~~(section 151 officer)~~ for offsetting the forecast overspend, together with an assessment of the impact these corrective actions will have on service delivery and performance targets. Approval to these budget variations will be in line with the scheme of virement.

~~3.4.12~~ 4.4.6.4 When notifying the Chief Finance Officer ~~(section 151 officer)~~ of such a situation, Chief Officers must advise if the problem relates solely to the current financial year or needs to be addressed within the financial forward plan as well.

~~4.4.6.5~~ Chief Officers are required to notify the Chief Finance Officer (section 151 officer) of all revenue underspends, over-recovery of income or other financial benefits arising within their revenue budgets. Where these occur they should in the first instance be returned to central contingencies unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where these exceptions occur, the Chief Officer is



responsible for notifying the Chief Finance Officer (section 151 officer) that this is to occur.

#### 4.4.7 Budget Monitoring – Capital

3.4.144.4.7.1 Forecast overspends on approved capital projects must be communicated to the Chief Finance Officer immediately. Having notified the Chief Finance Officer ~~(section 151 officer)~~, the ~~Chief Officer Director or Head of Service~~ must submit options to the Chief Finance Officer ~~(section 151 officer)~~ for offsetting the forecast overspend (e.g. by reducing the project specification, or budget for other projects) and/or identifying additional funding.

3.4.154.4.7.2 All forecasted overspends/additions must then be submitted to the Policy and Resources committee for approval.

3.4.164.4.7.3 Due to the uncertainty around the generation and timing of capital receipts, and the impact that delays could have on the level of prudential borrowing, capital project managers must obtain the prior approval of the Chief Finance Officer ~~(section 151 officer)~~ before entering into any individual capital commitment on an approved capital project over £1m.

#### 4.4.8 Central Contingency

3.4.17 The Chief Finance Officer ~~(section 151 officer)~~ will determine which budget risks and uncertainties ~~developments~~ are to be held within the central contingency.

3.4.184.4.9 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer ~~(section 151 officer)~~, ~~in consultation with the Chairman of the Policy and Resources Committee~~, following the receipt from a Chief Officer of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect (over £250,000), the contingency allocation must be approved by the Policy and Resources Committee.

3.4.19 Allocations from the central contingency for unplanned expenditure, including proposals to utilise underspends previously generated within the service and returned to central contingency, will be approved by the Chief Finance Officer ~~in consultation with the Chairman of Policy and Resources Committee~~. Where there are competing bids for use of under spends, additional income or windfalls previously returned to central contingency, priority will be given to the service(s) that generated that return. Allocations for unplanned expenditure over £250,000 must be approved by Policy and Resources Committee.

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~~4.4.11 Allocations for unplanned expenditure over £250,000 must be approved by Policy and Resources Committee.~~

#### 4.4.12 Balances and Reserves.

3.4.20—Full Council, sets out the Council's approach on the level of balances and reserves, having taken account of advice from the Chief Finance Officer ~~(section 151 officer)~~ as stated in 34.1.1

3.4.21—Allocation to and from the balances and reserves will be the responsibility of the Chief Finance Officer ~~(section 151 officer)~~ in line with the principles that Full Council have agreed.

3.4.22 Chief Officers are to indicate, during monthly monitoring, which reserves are likely to be used in year, subject to the Chief Finance Officer approval. For the avoidance of doubt the Chief Finance Officer retains ultimate decision making on the creation, addition to or use of reserves.

3.4.23~~4.4.13~~ Any significant change in the planned use of a reserve must be approved by the Policy and Resources Committee.

#### 4.4.14 Budget Monitoring – reporting

4.4.15~~3.4.24~~ The Chief Finance Officer ~~(section 151 officer)~~ will report in detail to Performance and Contract Management Committee ~~at least four times a year, at the end of each quarter~~ as a minimum, on the revenue and capital budgets and wider financial standing.

4.4.16~~3.4.25~~ Reports on the revenue budget will normally include:

- a revised forecast outturn including details as part of which, Chief Officers will inform Performance and Contract Management Committee:
  - i) of those cost centres for which they are responsible that are projecting net overspends or underspends either over £100,000 or over £50,000 where the cost centre's gross budget is less than £1m; and
  - ii) of the actions proposed to ensure that these overspends are not realised or and that service delivery is not impacted by underspends, are not realised.
- advice from the Chief Finance Officer ~~(section 151 officer)~~ on whether action is required to address any diminution in reserves and, if necessary, proposals and/or options for action that needs to be taken.

4.4.17~~3.4.26~~ These reports will make recommendations for varying the approved budget (revenue and capital) in the following circumstances:

- allocations from the central contingency for unplanned expenditure over £250,000, or for planned expenditure where there are significant full year effects;
- underspends and windfall benefits returned to the centre;
- increases in service revenue budgets where overspends are considered unavoidable and cannot be contained within the overall budget managed by a Chief Officer;
- variations in capital project budgets;
- additions to the capital programme outside of the main budget cycle.

#### 4.4.18 Authorisation of Non-Budgeted Expenditure



- ~~In cases of urgency or emergency, the Chief Finance Officer (section 151 officer) may approve revenue or capital expenditure in excess of the latest approved budget.~~
- ~~4.4.19 The Chief Finance Officer (section 151 officer) may approve revenue or capital expenditure not provided for within the latest approved budget if satisfied that:~~
- ~~• the expenditure is wholly reimbursable to the Council; or~~
  - ~~• compensatory savings have been identified; and~~
  - ~~• there are no significant full year effects.~~
- ~~In all circumstances, the expenditure must be consistent with the Corporate Plan and management agreements and should be reported to the next Performance and Contract Management Committee meeting.~~
- ~~4.4.20 Chief Officers, in consultation with the Chief Finance Officer (section 151 officer), should be encouraged to explore all feasible options that maximise external funding available to the Council. External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals, from either public or private sources.~~
- ~~4.4.21 Chief Officers must provide the Chief Finance Officer (section 151 officer) with details of all bids for external funding. Bids will follow the requirements of the Council's investment appraisal process. In particular, the following information must be provided:-~~
- ~~• how the bid supports achievement of Corporate Plan targets;~~
  - ~~• whether the bid is for capital and/or revenue funding;~~
  - ~~• revenue and capital matched funding contributions required from the Council, and how these will be identified;~~
  - ~~• revenue and capital matched funding contributions required from other organisations and individuals, how these amounts will be secured, and the risks associated with them;~~
  - ~~• an 'exit strategy', which sets out how budgets will be adjusted after the grant expires;~~
  - ~~• where the bid is for revenue funding:-~~
    - ~~○ whether this is to support existing levels of activity or enhanced / new activities;~~
    - ~~○ proposals for reducing the activity OR incorporating it in the base budget once the external funding is exhausted;~~
  - ~~• where the bid is for capital funding :-~~
    - ~~○ whether an asset will be created, and if so, how this fits in with the Council's Asset Management Strategy;~~
    - ~~○ how the ongoing cost of maintaining the asset will be funded;~~
    - ~~○ whether the asset can / will be disposed of at a later date.~~
- ~~4.4.22 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Finance Officer (section 151 officer). Decisions to proceed ahead of confirming external funding will be taken after~~

~~assessing all relevant risks. The Chief Finance Officer (section 151 officer) has the right to refer the decision to the Policy and Resources Committee.~~

~~4.4.23 Chief Officers must advise the Chief Finance Officer (section 151 officer) of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and should in the first instance be returned to the central contingency unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where the amount notified is less than the budget, the Director or Head of Service must notify the Chief Finance Officer (section 151 officer) of options for containing any potential overspend.~~

~~4.4.24 Where external funding is applied for, it is the responsibility of the Chief Officer to ensure that the monies are received from the paying body and, wherever possible, received ahead of the planned expenditure being incurred by the Council.~~

~~4.4.25 Chief Officers must ensure that all conditions associated with external funding are met and that information and evidence required to complete grant and subsidy claims are provided on time.~~

~~4.4.26 Chief Officers are responsible for ensuring that they comply with all requirements for the audit of external funding where applicable.~~

#### ~~4.4.27~~ 4.27 Full year Effects

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

#### ~~4.4.28~~ 4.28 Annual Governance Statement

Chief Officers must support the work on corporate risk management led by the Monitoring Officer, contributing to the production of the Annual Governance Statement that has to be published alongside the Statement of Accounts. Details of this are set out in the Code of Corporate Governance.

#### ~~4.3~~ 4.29 Partnership Working

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

#### ~~4.3~~ 4.30 General Requirements

Chief Officers must consult the Chief Finance Officer ~~(section 151 officer)~~ at an early stage on any current or future matter or decision that has financial implications that are not incorporated in the Financial Forward Plan or could impact on the Medium Term Financial Strategy.

#### 3.4.31 Authorisation of Non-Budgeted Expenditure (Emergency Payments)

Emergency payments may arise as a consequence of unforeseen circumstances (e.g.as a consequence of a natural disaster, a civil emergency or a court order etc.)

where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget.

3.4.32 Emergency payments can only be made in extenuating circumstances with the following approval (as a minimum):

- Up to £500,000 Strategic Commissioning Board (SCB) member  
SCB member will notify the Chief Finance Officer as soon as practicable that the emergency payment has been made.
- Over £500,000 Chief Executive Officer or Chief Finance Officer  
following consultation with the Leader of the Council.

3.4.33 In all circumstances, the expenditure must be consistent with the Corporate Plan and management agreements and should be reported to the next Performance and Contract Management Committee meeting.

3.4.34 The Chief Finance Officer may approve revenue or capital expenditure not provided for within the latest approved budget if satisfied that:

- the expenditure is wholly reimbursable to the Council; or
- compensatory savings have been identified; and
- there are no significant full year effects.

## **43.5 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS**

**43.5.1** The Chief Finance Officer (~~section 151 officer~~) is responsible for making arrangements for closing the Council's and the Pension Fund accounts and producing the annual Statement of Accounts, as well as all matters relating to their audit and public inspection.

**43.5.2** Chief Officers are responsible for ensuring that they and their staff adhere to the timetable and requirements set out by the Chief Finance Officer (~~section 151 officer~~) for the closing of accounts, and provide any information and evidence required in relation to this.

**43.5.3** The Statement of Accounts will be prepared in accordance with the CIPFA Code of Practice on Local Authority Accounting and Local Authority Accounting Panel (LAAP) bulletins, and Accounts and Audit Regulations 2015 Accounting Practice, which includes the deadline for their production and the requirement to include an Annual Governance Statement (AGS).

**43.5.4** Chief Officers must provide on time any information and evidence the Chief Finance Officer requires to close the accounts and complete all grant and subsidy claims.

43.5.5 In closing the accounts, the Chief Finance Officer ~~(section 151 officer)~~ may amend the originally approved funding of revenue and capital services and projects if this is to the Council's financial benefit.

43.5.6 In accordance with International Standard on Auditing (ISA) 260, the external auditor is required to issue detailed reports to those charged with governance on matters arising from the audit of the Council's accounts and Pension Fund accounts. There is also an Annual Audit Letter which includes the external auditor's report and opinion on the audit of the accounts, as well as comments and recommendations on whether the Council provides Value for Money. ~~This will be reported each year to the Audit Committee, together with an appropriate action plan.~~

## **43.6 TREASURY MANAGEMENT FRAMEWORK**

43.6.1 The Council adopts the key recommendations contained in "The Prudential Code for Capital Finance in Local Authorities – fully revised second edition (CIPFA, 2009), "Treasury Management in the Public Services: Code of Practice and cross sectoral guidance notes (CIPFA, 2009) and any subsequent recommended good practice by CIPFA.

43.6.2 Adherence to Prudential Code and Treasury Management Code of Practice  
The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services Code of Practice, as described in Section 4 of that code.

43.6.3 Policy and Resources Committee will create and maintain a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities.

43.6.4 The Chief Finance Officer ~~(section 151 officer)~~ will create and maintain suitable Treasury Management Practices, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

43.6.5 The Performance and Contract Management Committee will receive reports on its treasury management policies, practices and activities. These reports will incorporate the prudential borrowing limits and performance indicators. ~~Policy and Resources Committee will receive, including an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the Treasury Management Practices. These reports will incorporate the prudential borrowing limits and performance indicators.~~

43.6.6 The Chief Finance Officer ~~(section 151 officer)~~ has the delegated authority to undertake long term borrowing on behalf of the Authority and will issue a Delegated Powers Report immediately after this power is exercised to inform Members in consultation with the Chairman of the Policy and Resources Committee and reported to the next meeting of the Policy and Resources Committee.

43.6.7 The Council delegates responsibility for the implementation and the monitoring of its treasury management policies and practices to Performance and Contract

Management Committee and the updating of the Treasury Management Practices, and for the execution and administration of treasury management decisions to the Chief Finance Officer ~~(Section 151 officer)~~, who will act in accordance with the organisation's policy statement and Treasury Management Practices and CIPFA's Standard of Professional Practices on Treasury Management.

## **43.7 PENSION FUND MANAGEMENT**

**3.7.1**—The Chief Finance Officer ~~(section 151 officer)~~ is responsible for, or responsible for delegating authority for:

- approving early payment of deferred benefits under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations
- exercising discretion on compassionate grounds not to actuarially reduce deferred benefits paid early under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations;
- exercising the power to accept late applications (made more than 30 days after return to work or, if does not return to work, 30 days after the date of leaving) from a member who wishes to pay optional contributions for a period of absence (Regulation 22 of the Administration Regulations);
- informing a member, who is entitled to a pension or retirement grant under two or more provisions, which provision shall apply (Regulation 34 of the 1997 Regulations – no double entitlement);
- determining that late applications to convert scheme additional voluntary contributions (AVCs) into a membership credit will be accepted provided such a late claim is not made within one year of attaining normal retirement date (NRD) or six months after leaving service whichever is the later (Regulation 26 of the Administration Regulations).
- determining (for Barnet Council Employees only) whether to accept any request for the inwards transfer of pension rights made more than 12 months after the member joined the Scheme (Regulation 83 of the Administration Regulations).
- determining (for Barnet Council employees only) whether to accept any request
- for joining previous Scheme membership (either with this Employer and/or with another scheme employer) made more than 12 months after the member rejoined the Scheme (Regulation 16 of the Administration Regulations).
- exercising absolute discretion in determining the recipient(s) of any death grant payable from the Scheme (Regulations 23, 32 and 35 of the Benefits Regulations);
- deciding whether to treat education or training as continuous despite a break for the purpose of determining eligibility for a child's pension (Regulation 26 of the Benefits Regulations);
- communicating with other employers that are scheduled or admitted bodies as appropriate

## **54. FINANCIAL ADMINISTRATION, SYSTEMS AND PROCEDURES**

### **54.1 ACCOUNTING**

- 54.1.1 All accounting arrangements across the council shall be in a manner approved by the ~~Section 151~~Chief Finance Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and national guidance.
- 54.1.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 54.1.3 All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer (~~section 151 officer~~).

### **~~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.~~

### ~~5.3 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 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")~~
- ~~• provide an effective, efficient and value for money investigation service;~~
- ~~• Where appropriate provide the organisation, its employees and business partners with a 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 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.~~

~~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:~~

~~5.3.11 CAFT or other authorised representative 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).~~

## **5.4 ~~RISK MANAGEMENT~~**

**5.4.1** ~~Chief Officers are responsible for ensuring that they and their staff uphold the requirements of the Corporate Risk Management Policy Statement and Framework.~~

### **5.54.2 BANKING ARRANGEMENTS**

**5.5.14.2.1** ~~The Chief Finance Officer (section 151 officer)~~ must approve all banking and card acquiring arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.

**5.5.24.2.2** ~~The Chief Finance Officer (section 151 officer)~~ will maintain a register of all bank and card acquiring contracts.

**5.5.34.2.3** ~~Cheques above certain financial limits set by the Chief Finance Officer (section 151 officer)~~ shall be manually countersigned by those designated officers authorised to do so by the Chief Finance Officer ~~(section 151 officer)~~.

**5.5.44.2.4** ~~The Chief Finance Officer (section 151 officer)~~ will be responsible for ensuring that the Council's banking arrangements are reviewed on a regular basis and that the banking contract is reviewed every three years.

**5.5.54.2.5** ~~Chief Officers are responsible for ensuring that the any staff in their areas that use the Procurement Cards adhere to the requirements of the LBB Purchasing Card (PCard) Guide and Terms and Conditions.~~

### **5.64.3 ASSETS**

**5.6.14.3.1** Chief Officers are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.

**5.6.24.3.2** Maximum limits for cash holdings shall be set by the Chief Finance Officer ~~(section 151 officer)~~, which may not be exceeded without prior authority. Areas where cash is counted and held must be secure and with access restricted only to authorised staff.

**5.6.34.3.3** Chief Officers are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals in excess of £6,000 (or a higher figure that is consistent with capital accounting regulations) are to be notified to the Chief Finance Officer ~~(section 151 officer)~~.

**4.3.4** The Council has set a *de minimis* threshold for capital expenditure at £50,000. This figure provides guidance only; the Chief Finance Officer may exercise discretion on the *de minimis* threshold.

**5.6.54.3.5** Chief Officers are responsible for implementing a system for the maintenance of stocks and stores including regular stock checks and write offs when required.

### **5.74.4 IMPREST ACCOUNTS**

**5.7.14.4.1** The Chief Finance Officer ~~(section 151 officer)~~ must authorise all imprest accounts.

**5.7.24.4.2** The imprest account holder must:

- provide a certificate showing the state of the account at the end of the financial year and additionally when requested by the Chief Finance Officer ~~(section 151 officer)~~;
- only reimburse expenditure up to a limit set by the Chief Finance Officer ~~(section 151 officer)~~;
- obtain receipts for all payments made, which will be proper VAT receipts;
- properly account for VAT in all float reimbursements;
- not allow the account to be overdrawn and shall arrange for reimbursement at regular intervals;
- not pay any salaries, wages or allowances from the account;
- not pay income into the account;
- provide the Chief Finance Officer ~~(section 151 officer)~~ with a full account for the advance when ceasing to be the imprest account holder.

### **5.84.5 INCOME**

**5.8.14.5.1** The Council will charge for all services, where allowable, and have charging policies in place

4.5.2 Officers should encourage payment in advance or at point of service delivery wherever possible as per the Debt Management Policy, and minimise the amount of credit given to customers.

5.8.24.5.3 All records relating to income due to the Council, accounts raised, and receipts issued shall be in a format agreed by the Chief Finance Officer ~~(section 151 officer)~~.

5.8.34.5.4 Officers responsible for controlled stationery must keep it secure. Methods of payment must be agreed by the Chief Finance Officer ~~(section 151 officer)~~.

5.8.44.5.5 The Chief Finance Officer ~~(section 151 officer)~~, or officer nominated by the Chief Finance Officer ~~(section 151 officer)~~, may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Debt Management Policy.

5.8.54.5.6 — Officers receiving monies shall keep an accurate and chronological account of all receipts and bankings.

5.8.64.5.7 Monies received must be banked on the day of receipt wherever possible, and not later than the next working day. All amounts paid in must be referenced to enable subsequent identification of the accounts to which they relate. All cheques, postal orders etc. shall be crossed with the crossing stamp provided.

5.8.74.5.8 No deductions may be made from monies received.

5.8.84.5.9 ~~Heads of Service Chief Officers~~ must notify the Chief Finance Officer ~~(section 151 officer)~~ of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.

5.8.94.5.10 Invoicing & Debt Recovery  
Officers responsible for raising invoices must ensure that VAT has been properly accounted for.

5.8.104.5.11 The Council's Debt Management Policy, approved annually in February by Policy and Resources Committee, sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all services within the London Borough of Barnet.

## 5.94.6 **INSURANCE**

5.9.14.6.1 The Chief Finance Officer ~~(section 151 officer)~~ is responsible for maintaining the Insurance Strategy arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered.

5.9.24.6.2 Chief Officers must notify the Chief Finance Officer ~~(section 151 officer)~~ immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.

**5.9.34.6.3** Any incident which could give rise to an insurance claim must be promptly notified to the Chief Finance Officer ~~(section 151 officer)~~ by the relevant officer, who shall also inform the Police if appropriate.

**5.9.44.6.4**—The Chief Finance Officer ~~(section 151 officer)~~ will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.

**5.9.54.6.5** Officers must consult the Chief Finance Officer ~~(section 151 officer)~~ and Monitoring Officer in all cases where the Council is requested to give an indemnity.

**5.9.64.6.6** Officers in receipt of a motor vehicle allowance must produce registration documents, insurance policy, certificate of insurance and test certificate if required by the Chief Finance Officer ~~(section 151 officer)~~. Insurance policies must be comprehensive and cover use on official business.

**5.9.74.6.7** Schools

Where funds for insurance are delegated to any school, the Council may require the school to demonstrate that cover relevant to the Council's insurable interests, under a policy arranged by the Governing Body, is at least as good as the relevant minimum cover arranged by the Council. If the Council makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets, the Council will have regard to the actual risks, which might reasonably be expected to arise at the school in question in operating this requirement rather than applying an arbitrary minimum level of cover for all schools.

**5.9.84.6.8** It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance may be funded from the school budget share.

**5.9.94.6.9** The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could be charged to the school's budget share.

**5.104.7 INVESTMENTS, BORROWING, CAPITAL FINANCING & TRUST ACCOUNTS**

**5.10.14.7.1** The Chief Finance Officer shall ensure that the Council's money is properly managed and controlled in a way which balances risk with return but with the overriding consideration being given to the security and liquidity of the Council's investment.

**4.7.2** All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or the Council's Pension Fund or in the name of nominees approved at a Policy and Resources Committee.

~~5.10.24.7.3~~ All securities shall be held securely by the Council's bankers, ~~the Chief Finance Officer (section 151 officer)~~ or custodians approved at a the Policy and Resources Committee.

~~5.10.34.7.4~~ The Chief Finance Officer ~~(section 151 officer)~~ shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.

~~5.10.44.7.5~~ The Chief Finance Officer ~~(section 151 officer)~~ will set Prudential indicators, as outlined in the Prudential Code for Capital Finance in Local Authorities, for the forthcoming and following two financial years. These will be contained in the Treasury Management Strategy approved by Policy and Resources Committee each February.

~~4.7.6~~ The Chief Finance Officer ~~(section 151 officer)~~ will also provide regular monitoring reports to Performance and Contract Management Committee and report any breaches or amendments of the Prudential eCode to Council.

~~5.10.5~~ ~~The key objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plan of the local authorities are affordable, prudent, sustainable and in accordance with good professional practice — or, in exceptional cases, to demonstrate that there is a danger of not ensuring this, so that the authority can take timely remedial action.~~

~~5.10.64.7.7~~ The Chief Finance Officer ~~(section 151 officer)~~ will be the Council's registrar of all stocks and bonds. In addition this officer will maintain a register of all loans and investments made in the name of the Council.

~~5.10.74.7.8~~ The Chief Finance Officer ~~(section 151 officer)~~ shall ensure that all legislative amendments and changes in treasury or capital limits are approved at Policy and Resources Committee and where necessary full Council.

## **5.114.8 ORDERING OF SUPPLIES, WORKS & SERVICES**

~~5.11.14.8.1~~ Procurement of supplies, works and services must be in accordance with Contract Procedure Rules. It is a disciplinary offence to fail to comply with Contract Procedure Rules when letting contracts. Council employees have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer. The procedures for initiating procurement activity, for authorising and accepting tenders and the financial limits for procurement are set out in the Contract Procedure Rules and are not repeated here.

~~5.11.24.8.2~~ With respect to third party organisations, if a supplier is awarded business in excess of 25% of their turnover, then a risk assessment needs to be carried out to ensure that the supplier is not overly dependant on the Council. Where the supplier is a consortium, the relevant figure is the combined turnover of the consortium's constituent members.



**5.11.34.8.3** Chief Officers are responsible for all contracts tendered and let by their service areas. Their duties in relation to contract letting and management are:

- to ensure compliance with English Law, U.K. and EU legislation and Council policy;
- to ensure value for money and optimise risk allocation in all procurement matters;
- to ensure compliance with the Contract Procedure Rules

**5.11.44.8.4** Chief Officers must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available.

**5.11.54.8.5** **Creation of a purchase Order (PO):** Once the purchase has been agreed, a purchase order must be raised on the council's accounting system. **Payment of an invoice :** Authorised officers must ensure that a purchase order has been raised on the accounting system and successfully communicated to the supplier. Invoices in respect to works, supplies and services will be paid by the Central Accounts Payable Team, but only after the authorising officer has, where necessary, first receipted the supply on the accounting system.

**5.11.64.8.6** All invoices must reference a valid purchase order number, otherwise the Central Accounts Payable Team reserves the right to refuse payment of an invoice.

**5.11.74.8.7** Only invoices presented in an acceptable format will be passed for payment. This includes invoices that do not comply with VAT Regulations. VAT is only recoverable by the Council if a proper VAT invoice is made out in the name of the the Council.

**5.11.84.8.8** To enable the Council to comply with the Late Payment of Commercial Debts ~~Act~~Regulations, no amended invoices will be accepted. Chief Officers must ensure that their services must return an invoice to the supplier and seek a new invoice with a revised date, whenever:-

- the invoice is dated prior to receipt of supplies, works or services and this is contrary to the agreed payment terms;
- the invoice is incorrect;
- the invoice does not reference a valid Purchase Order number.

**5.11.94.8.9** When certifying an invoice for payment that was initially disputed, record the date on which the invoice was actually validated must be recorded.

**4.8.10** The Central Accounts Payable Team will perform a three-way match against the purchase order, goods receipt and invoice, prior to making a payment. Invoices from trusted suppliers, (as advised by the Strategic Procurement Team) will only require a two-way match. Invoices that do not pass this criteria will be returned to the service for amendment.

~~5.11.11~~ **4.8.11** **Payments in advance :** ~~Chief Officers~~Directors, Assistant Directors, Lead Commissioners and Heads of Service, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to

the Chief Finance Officer ~~(section 151 officer)~~.

## **5.124.9 SALARIES, PENSIONS & ALLOWANCES**

**5.12.14.9.1** Details of payroll arrangements and responsibilities are set out in the HR Regulations.

## **4.10 TAXATION**

**4.10.1** The Chief Finance Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence its own activities, or indirectly, as a consequence of service delivery through external partners.

**4.10.2** The Chief Finance Officer is responsible for advising Chief Officers on all taxation issues that affect the Council, in the light of guidance issued by appropriate bodies and relevant legislation as it applies.

**4.10.3** To enable the Chief Finance Officer to fulfil the requirements of this role, Chief Officers will:

- (i) Ensure that the Chief Finance Officer is consulted on all proposals that may alter or affect the Council's tax liability, including proposals to implement alternative service delivery models.
- (ii) Ensure that the VAT guidance issued by the Chief Finance Officer is complied with (i.e. to ensure that the correct liability is attached to all income due and that all amounts recoverable on purchases can be claimed).
- (iii) Ensure that, where construction and maintenance works are undertaken, the sub-contractor fulfils the necessary construction industry tax scheme requirements (as advised by the Chief Finance Officer).
- (iv) Ensure that the Chief Finance Officer guidance on fee payments to consultants, individuals or partners is complied with.

**4.10.4** The Chief Finance Officer is responsible for ensuring that the Council's tax records are maintained, all tax payments are made, tax credits are received and tax returns are submitted by their due date, as appropriate.

## **5.134.11 AMENITY & UNOFFICIAL FUNDS**

**5.13.14.11.1** Amenity or Unofficial Fund relates to all sums of money other than those which are required to be paid into the Council's General Bank Account (or such other account so authorised by the Chief Finance Officer ~~(section 151 officer)~~) or Trust Fund monies outside the authority of the Council.

**5.13.24.11.2** All accounts shall be opened by the Chief Finance Officer ~~(section 151 officer)~~ and their names shall include the name of the London Borough of Barnet and the establishment concerned.



5.13.34.11.3 Provided the Chief Finance Officer ~~(section 151 officer)~~ approves and is satisfied with accounting and security arrangements, separate accounts need not be opened for funds of small amounts.

5.13.44.11.4 The head of each establishment which sets up such a fund shall inform the relevant Chief Officer of its existence.

5.13.54.11.5 Responsibility for the administration of the fund shall rest with the head of the establishment and with such other member(s) of staff as that person shall decide.

5.13.64.11.6 Expenditure from the fund shall be at the discretion of the establishment head in conjunction with other member(s) of staff as felt necessary.

5.13.74.11.7 Cheques shall be signed and countersigned by the head and deputies of the establishment. All transactions above a limit set by the Chief Finance Officer ~~(section 151 officer)~~ shall be signed by at least two authorised officers.

5.13.84.11.8 Auditors shall be appointed by the head of the establishment and the fee (if any) shall be charged to the fund. Where the turnover of the fund exceeds an amount set by the Chief Finance Officer ~~(section 151 officer)~~, the fund must be audited by auditors approved by that officer. The Chief Finance Officer shall have the right to inspect the accounts.

5.13.94.11.9 At the end of each financial year the head shall submit an audited summary of the fund to the Chief Finance Officer ~~(section 151 officer)~~ (and Governing Body if appropriate).

## **5 RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **5.1 RISK MANAGEMENT**

5.1.1 The Performance and Contract Monitoring Committee is responsible for approving the Council's risk management framework and for reviewing the effectiveness of risk management. Individual services are responsible for ensuring the proper management of risk.

5.1.2 Chief Officers are responsible for ensuring that they and their staff uphold the requirements of the Corporate Risk Management Framework.

### **5.2 INTERNAL CONTROL**

5.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

5.2.2 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other

authorities that govern their use.

5.2.3 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **5.3 INTERNAL AUDIT**

5.3.1 Under the Accounts and Audit Regulations ~~2011~~2015 the Council has a statutory obligation to have an adequate and effective system of internal audit. The ~~Chief Internal Auditor~~Assurance Director has the delegated authority for providing and maintaining this service.

5.3.2 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.

5.3.3 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.'

5.3.4 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.

5.3.5 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.

#### 5.3.6 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.

#### 5.3.7 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.

#### 5.3.8 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.

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

#### 5.3.10 Responsibility & Authority

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

5.3.11 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.

5.3.12 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.

5.3.13 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.

#### **5.4 CORPORATE ANTI-FRAUD TEAM (CAFT)**

5.4.1 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 Director has the delegated authority for providing and maintaining this service.

5.4.2 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.

##### **5.4.3 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.

5.4.4 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.

5.4.5 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")
- provide an effective, efficient and value for money investigation service;

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

#### 5.4.6 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.

#### 5.4.7 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.

5.4.8 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 Director, the Chief Internal Auditor or any member of the CAFT.

5.4.9 The Assurance Director will maintain a scheme of delegation that will set out duties and responsibilities in relation to counter fraud activities.

5.4.10 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:

5.4.11 CAFT or other authorised representative 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).

## **5.5 EXTERNAL AUDIT**

5.5.1 Public Sector Audit Appointments Limited (replaced the Audit Commission with effect from 1 April 2015) is responsible for appointing external auditors to each local authority. The duties of the external auditor are governed by section 5 of the Audit Commission Act 1998.

5.5.2 The Local Audit and Accountability Act 2014 established transitional arrangements for the appointment of external auditors and the setting of audit fees for all local government in England which cover the audit of accounts up to 2018/19.

5.5.3 External auditors have a responsibility to satisfy themselves that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. This judgement is based on criteria specified by the National Audit Office. The Chief Finance Officer, in conjunction with Chief Officers, must ensure that the Council makes best use of resources and taxpayers and / or service users receive value for money.

5.5.4 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## **6. TRADING ACCOUNTS**

6.1 As the Council continues to develop its commissioning model alongside a more commercial culture, trading accounts and business unit charging are becoming increasingly important.

6.2 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units, where appropriate.

6.3 Where consideration is being given to the introduction of charges for discretionary services or to utilising a trading power the relevant Chief Officer must consult with the Chief Finance Officer and Legal Services on all aspects of the proposal (i.e. financial, legal and personnel related) prior to seeking approval from the relevant theme committee.



6.4 The Chief Officer must observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to include all relevant income and expenditure, including overhead charged and an annual report in support of the final accounts.

6.5 The Chief Officer must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **7. EXTERNAL ARRANGEMENTS**

### **7.1 PARTNERSHIPS**

7.1.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It may also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

7.1.2 Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project, this is not a partnership.

7.1.3 It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Council's Procurement Policy and Procedures.

7.1.4 Chief Officers are responsible for ensuring that appropriate work is undertaken and approvals are obtained before any negotiations are concluded in relation to work with external bodies, these include:

- (i) The approval of the [Section 154](#) Chief Finance Officer and the Monitoring Officer prior to entering into a partnership agreement.
- (ii) An appraisal which demonstrates that the risks associated with the arrangement are minimal, or that appropriate arrangements are in place to mitigate any such risks.
- (iii) Demonstrating that the partnership agreement and arrangements will not impact adversely upon the services provided by the Council or upon its finances.
- (iv) The proposed financial contribution by the Council to the partnership can be met from existing budget provision.
- (v) Policy and Resources or Council (where appropriate) approval is secured for all delegations and frameworks for the proposed partnership.

7.1.5 The approval of both the Chief Finance Officer and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Chief Finance Officer must also be obtained where it is

proposed that the Council adopts the role of 'Accountable Body' for a partnership. This is to ensure that the:

- (i) Legal status and financial viability of the arrangement are clearly established and acceptable.
- (ii) The Council's financial commitment to the partnership is quantified and that this can be accommodated within the existing budget provision.
- (iii) Financial and corporate governance arrangements in place for the partnership are robust, and acceptable from the Council's perspective.
- (iv) The Council is not exposed to undue financial, legal or reputational risk as a consequence of its involvement in the partnership.
- (v) The Council's own financial accounting and reporting requirements can be satisfied.

7.1.6 A written partnership agreement must be produced that clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership. The document must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend.

#### Delegation of budget to a partnership

7.1.7 The delegation of budget to a partnership (whether or not the arrangement is binding on the parties), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval as follows:

- Up to £500,000                      Chief Officers  
following consultation with the Chief Finance Officer.
- Up to £5m                              Chief Executive Officer or Chief Finance Officer  
following consultation with the Leader of the Council.
- More than £5m                      Policy and Resources Committee  
following consultation with all of the above.

7.1.8 Where the Council is the 'accountable body' for a partnership, these Financial Regulations apply to decisions relating to the expending of that money. All expenditure must be authorised by an appropriate London Borough of Barnet officer, or by someone else who has a statutory power to authorise expenditure.

7.1.9 Chief Officers are responsible for ensuring that the Council is promoting and applying the same high standards of financial administration to the partnership that apply throughout the Council.

7.1.10 Chief Officers must provide information on the partnership arrangements to the Chief Finance Officer, to enable the appropriate disclosures to be made within the Council's annual Statement of Accounts.

## 7.2 EXTERNAL FUNDING



- 7.2.1 External funding is potentially a very important source of income; however funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.
- 7.2.2 External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals, from either public or private sources.
- 7.2.3 Chief Officers, in consultation with the Chief Finance Officer, should develop their External Funding Strategy to explore all feasible options that maximise external funding available to the Council. Their strategy should cover the principles which the Council will apply to generating additional funding via making bids to the Government and other funding bodies and the proper processes for obtaining necessary approvals. It is particularly important to ensure that approved resources are available for any 'match funding' requirements prior to entering into any agreements.
- 7.2.4 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 7.2.5 Chief Officers must provide the Chief Finance Officer with details of all bids for external funding. Bids will follow the requirements of the Council's investment appraisal process. In particular, the following information must be provided:
- How the bid supports achievement of Corporate Plan targets;
  - Whether the bid is for capital and/or revenue funding;
  - Revenue and capital matched funding contributions required from the Council, and how these will be identified;
  - Revenue and capital matched funding contributions required from other organisations and individuals, how these amounts will be secured, and the risks associated with them;
  - An 'exit strategy', which sets out how budgets will be adjusted after the grant expires;
  - Where the bid is for revenue funding:-
    - whether this is to support existing levels of activity or enhanced / new activities;
    - proposals for reducing the activity OR incorporating it in the base budget once the external funding is exhausted;
  - Where the bid is for capital funding:-
    - whether an asset will be created, and if so, how this fits in with the Council's Strategy;
    - how the ongoing cost of maintaining the asset will be funded;
    - whether the asset can / will be disposed of at a later date.
- 7.2.6 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Finance Officer. Decisions to proceed ahead of confirming external funding will be taken after assessing all relevant

risks. The Chief Finance Officer has the right to refer the decision to the Policy and Resources Committee.

7.2.7 Where external funding is applied for, it is the responsibility of the Chief Officer to ensure that the monies are received from the paying body and, wherever possible, received ahead of the planned expenditure being incurred by the Council.

7.2.8 Chief Officers must advise the Chief Finance Officer of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and should in the first instance be returned to the central contingency unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where the amount notified is less than the budget, the Director or Head of Service must notify the Chief Finance Officer of options for containing any potential overspend.

7.2.9 Chief Officers must ensure that all conditions associated with external funding are met and that information and evidence required to complete grant and subsidy claims are provided on time.

7.2.10 Chief Officers are responsible for ensuring that they comply with all requirements for the audit of external funding where applicable.

### **7.3 WORK FOR THIRD PARTIES**

7.3.1 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work. Where such legal powers exist, Chief Officers are responsible for:

- (i) Approving the contractual arrangements for any work undertaken by their services for third parties or external bodies.
- (ii) Ensuring that the appropriate expertise exists to fulfil the contract.
- (iii) Ensuring that no contract adversely impacts upon the services provided by the Council.
- (iv) Approval will be made after appropriate professional advice, including but not restricted to legal, has been obtained.

7.3.2 With regard to the financial aspects of third party contracts, Chief Officers will:

- (i) Comply with any guidance issued by the Chief Finance Officer and will ensure that the appropriate insurance arrangements are made.
- (ii) Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- (iii) Ensure that the Council is not exposed to the risk of bad debts.

7.3.3 A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement. Chief Officers will provide information on the contractual arrangements to the Chief Finance Officer

in order that the appropriate disclosures can be made within the Council's annual statement of accounts.

7.3.4 Performance and Contract Management (PCM) Committee is responsible for monitoring the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000.

## **7.4 ALTERNATIVE DELIVERY MODELS**

7.4.1 Services may be commissioned from retained services within the Council or via alternative delivery models. There are various types of alternative delivery model, including, but not limited to:

- (i) Local Authority Trading Company (LATC) – a separate legal entity in which the Council has an interest that trades for profit with both public and private bodies. An LATC could have a number of legal forms including a company limited by shares, a company limited by guarantee, a community benefit society or a cooperative society.
- (ii) Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking. They are able to trade for profit.
- (iii) Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission; surpluses are reinvested in the company.
- (iv) Social Enterprises - businesses trading for social and environmental purposes.
- (v) Outsourcing – a contractual arrangement between the Council and a private provider for the delivery of an agreed service, which involves the transfer of Council staff to the private provider. The outsourced provider can charge its customers and make a profit.
- (vi) Social Impact Bonds – contract to achieve agreed social outcomes through a programme of interventions delivered by a number of service providers.
- (vii) Joint Committee – joint bodies set up, by agreement, to discharge or carry out activities in conjunction with others.
- (viii) Unincorporated association – pooling of resources with other public sector bodies as a means of facilitating joint working in the provision of services.

7.4.2 This above list is not intended to be exhaustive, but is provided to illustrate the range and diversity of alternative service delivery models.

7.4.3 Any proposal to commission services via an alternative delivery vehicle must be developed through the Council's business case governance framework and using the business case template, to ensure that there is a robust planning and decision-making process in place.

7.4.4 The business case must clearly articulate the options being considered and measure these against the desired outcomes. It should also set out whether there is a statutory basis for the provision of the service or activity under consideration.

7.4.5 Chief Officers are responsible for ensuring that the Council's governance framework is followed through all stages of the business case development and decision making process, and that specialist advice is sought from the following key stakeholders across the Council, at each stage in the development of the business case:

- (i) Chief Finance Officer (including financial, cash management and tax advice);
- (ii) Director of Assurance (including Monitoring Officer, Internal Audit and Organisational Risk advice);
- (iii) Director of Commercial Services;
- (iv) Director of Human Resources and Assistant Director of Finance (Customer Services Group) (including HR, payroll, pensions administration, purchase to pay, income collection).

7.4.6 Chief Officers are responsible for ensuring that committee approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

## **8. TRANSPARENCY**

8.1.1 To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending, regardless of value. Monthly payment transactions made via purchase card, employee expenses and accounts payable are available to download via the Council's Open Barnet data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access. <http://open.barnet.gov.uk/>

# Contract Procedure Rules

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## 1 APPLICATION

- 1.1 Under section 135 of the Local Government Act 1972 the council must make standing orders with respect to contracts for the supply of goods or materials or for the execution of works.
- 1.2 These Contract Procedure Rules provide the governance structure for the Council to procure works, goods and services. The aims of these rules are to:
- ensure value for money and propriety in the spending of public money;
  - enable works, goods 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 possibility of challenge arising from non-compliant Procurement activity; and
  - ensure compliance with the Law
- 1.3 These Contract Procedure Rules apply to everyone who commissions or procures contracts on behalf of the Council, including external consultants and third party providers.
- 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.
- 1.4 Refer to any approved Scheme of Delegation to identify any manager with the right to undertake Procurement. Approved Officers (Heads of Service and above) are accountable for all Procurement in their respective area of responsibility including following the Contract Procedure Rules and complying with operational procurement guidelines and codes of practice. All Officers must ensure that the Council's approved processes and standards for Procurement, as set out in the Procurement Toolkit are adhered to. This includes ensuring staff attend relevant training. All information governance, insurance, safeguarding, social value (including Support to Local Community), conflict of interest and business continuity requirements must be adhered to in line with the Procurement Toolkit and the Council's Information Governance Policies.
- 1.5 The Director of Commercial Services in consultation with the Director of Resources shall maintain and issue the Contract Procedure Rules.
- 1.6 Customer Support Group (CSG) Procurement is responsible for ensuring Council awareness and compliance with all relevant Law. Any significant changes to relevant Law will be reflected in these Contract Procedure Rules.

## 2 SCOPE

- 2.1 The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding on Procurement, such as grant allocation, received by the Council from external sources.
- 2.2 The Contract Procedure Rules do not apply to Non-Procurement activities as set out in Section 13.18 (Definitions) of these Contract Procedure Rules. Payments to third parties for these activities are subject to authorisation by Finance.
- 2.3 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.
- 2.4 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.
- 2.5 These Contract Procedure Rules do not apply to any acquisition or disposal of any interest in land, or to any transaction in land. Section 75 National Health Services Act 2006 arrangements between NHS bodies and the council are not subject to these Contract Procedure Rules though Procurement activities undertaken under any such arrangements may be.

## 3 CONTRACT VALUE CALCULATION

- 3.1 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. 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.
- 3.2 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 for the goods incidental to such works and services.
- 3.3 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.
- 3.4 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 to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.



## **4 AUTHORISATION**

- 4.1 Any Procurement, including extensions and variations to Contracts set out in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee, is deemed as Authorised irrespective of the Contract value.
- 4.2 Any Procurement which has not been Authorised as set out in 5.1 must be Authorised in accordance with Article 10 of the Constitution, Table B.

## **5 PROCUREMENT METHOD**

- 5.1 Where Procurement will result in a Framework Agreement, Dynamic Purchasing System or Contract refer to Article 10 of the Constitution, Table B to determine the Procurement process that should be used. If any further clarification is required refer to the CSG Procurement Team.
- 5.2 All Procurement of Contracts with an estimated value at or below £10,000.00 are subject to Reasonable means of selection including confirmation of budget and consideration of Barnet's local supplier base and SMEs. All tender opportunities for works, goods or services over £10,000 (except for social care placements, special educational needs listed in 5.8 and activities defined in 13.18) must be advertised using the CSG e-procurement portal and in accordance with Article 10 of the Constitution, Table B and be subject to Tender Review.
- 5.3 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. CSG Procurement will arrange this.
- 5.4 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.
- 5.5 Call-Off Contracts under a Framework Agreement or Dynamic Purchasing System must be carried out in accordance with the rules laid down in the Framework Agreement or the Dynamic Purchasing System.
- 5.6 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.
- 5.7 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.
- 5.8 For activities that result in a contractual obligation for social care placements and special education needs 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 Article 10 (Decision-Making) as set out in the Constitution.

- 5.9 Procurement activity for Contracts for certain health, social, community, educational and cultural related services, "Light-Touch Regime Services" whose value is equal to or over the threshold of £ 589,148 must be tendered and awarded in compliance with 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
- 5.10 For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.
- 5.11 For Contracts under the OJEU financial threshold the Commercial Services Director may waive the requirement to seek 2 written quotes subject to a Summary DPR being provided, demonstrating that the market place has been fully tested and the Council has obtained value for money.
- 5.12 The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view.
- 5.13 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, goods or services

## 6 SINGLE TENDER ACTION

- 6.1 A single tender action or commitment is not allowed unless it is in compliance with the Law and approved in advance by the Director of Commercial Services. Single tender action is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise.
- 6.2 For Contract values above the EU financial threshold single tender actions are permitted under Regulation 32 of The Public Contracts Regulations 2015 in exceptional circumstances. Officers must seek advice from CSG Procurement if they believe that a single tender action may be justified. Exceptional circumstances may include:
  - 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.
- 6.3 Where a competition has been undertaken, in accordance with Section 5, and only a single bid has been received, the Commercial Services Director can approve the award of a Contract, subject to an appropriate review being undertaken and an audit trail being available for inspection. The award of the Contract cannot proceed without this authorisation.

## 7 CONCESSION CONTRACTS

- 7.1 The Concession Contracts Regulations 2016 (CCR) apply to the award of works Concession Contracts or services Concession Contracts above £4,104,394
- 7.2 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
- 7.3 The same general principles that apply to other Procurement activities also 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.
- 7.4 Seek advice from CSG Procurement and/or Legal Services if you consider that you might want to award a Concession Contract

## 8 ACCEPTANCE

- 8.1 Acceptance of Contracts must be in accordance with Article 10 Table B of the Constitution, and in all cases is subject to:
- Budget provision;
  - a compliant Procurement process; and
  - confirmation of acceptable financial status of the contractor
- 8.2 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 officer of a service area under the scheme of delegation in the council's Constitution to enter into contract with a new independent provider.
- 8.3 Acceptance thresholds for Contract extensions and variations are set out in Article 10 Table B of the Constitution.
- 8.4 The financial evaluation of tenders will be undertaken by:
- CSG Procurement if the Contract is valued at less than £164,176 for goods or services or less than £4,104,394 for works, or;
  - A Financial Officer as delegated by the Director of Finance if: (a) the contract is valued at £164,176 or more, for goods or services; or (b) the contract is valued at £4,104,394 or more for works; or (c) the Director of Finance considers that the Contract has a significant impact on the council's finances.

## **9 CONTRACT SIGNING and SEALING**

- 9.1 Every Contract must be in a form approved by Legal services or delegated officer, if its value exceeds £25,000 or where appropriate to the nature of the Contract.
- 9.2 All Contracts awarded following a Procurement process with a Contract value above the EU financial threshold shall be sealed unless Legal Services or delegated officer directs otherwise.
- 9.3 Contracts and Framework Agreements must be sealed. Call-off Contracts from a Framework Agreement under the EU financial threshold do not require sealing and need only be signed by a Council Officer in accordance with the Scheme of Delegation.
- 9.4 Where Legal services or delegated officer considers it appropriate that a Contract should be sealed other than as specified above, then such a Contract must be sealed.

## **10 CONTRACT MANAGEMENT**

- 10.1 During the life of the Contract Approved Officers 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 all Approved Officers must ensure that those responsible for managing Contracts undergo CSG Procurement approved training

## **11 EXTENSIONS and VARIATIONS**

- 11.1 Contracts that have been originally advertised with extension options and which contain clear extension options can be extended subject to acceptance under Article 10 Table B of the Constitution and under Regulation 72 of the Public Contracts Regulations 2015 certain amendments, and extensions or renewals of an existing Contract can be made without triggering a requirement for a new Procurement exercise. Examples include:
  - where the Contract contains a change control process and the scope and nature of the changes that can be made and the conditions under which such a change can be made are clear;
  - 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 or circumstances have arisen that the Council could not reasonably have foreseen and that require an amendment to the existing Contract, in both cases provided that each change does not increase the Contract's value by more than 50 per cent as a result
  - corporate restructures, takeovers and mergers

- 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 goods or services) or less than 15 per cent of the initial Contract value, in the case of a works contract.
  - The proposed modifications are insubstantial
- 11.2 Commissioners must consult CSG Procurement to confirm that any of the circumstances set out in section 11.1 above apply permitting a Contract amendment, extension or renewal and Commissioners must also comply with the Authorisation and Acceptance Thresholds in Article 10 of the Constitution, Table B.
- 11.3 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 Article 10 of the Constitution, Table B.
- 11.4 The value referred to in Article 10 of the Constitution, Table B 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.
- 11.5 In addition to the requirements of Regulation 72 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 Article 10 of the Constitution, Table B;
  - the extension or variation has an approved Budget allocation;
  - 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);
- 11.6 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 Article 10 of the Constitution, Table B.
- 11.7 If any of the conditions at 11.5 or 11.6 cannot be met, then a new Procurement exercise must be commenced.
- 11.8 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with Article 10 of the Constitution, Table B.

## 12 WAIVERS

- 12.1 If the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, Approved Officers 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.

- 12.2 Approved Officers 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.
- 12.3 Any waiver should only be granted for a maximum period of 12 months, except in exceptional cases.
- 12.4 Waivers cannot be granted where this would breach the Law

## 13 DEFINITIONS and INTERPRETATION

- 13.1 **"Acceptance"** is the authorisation to enter into a Contract with a particular supplier(s) on the terms, conditions and at the price(s) set out in the Contract documents.
- 13.2 **"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.
- 13.3 **"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.
- 13.4 **"Authorisation"** is the approval required to enable any Procurement to occur.
- 13.5 **"Budget"** is the annually agreed budget and supporting plans and strategies for each Delivery Unit.
- 13.6 **"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.
- 13.7 **"Contract"** means a formal written agreement between the Council and the provider of any goods, services or works, including terms and conditions approved by Legal Services.
- 13.8 **"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

- 13.9 **“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;
- 13.10 **“DPR”** means Delegated Powers Report. Templates and guidance for completion are available from the Governance
- 13.11 **“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.
- 13.12 **“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.
- 13.13 **“EU financial threshold”** means the financial threshold from time to time above which Procurement becomes subject to compliance with the Public Contracts Regulations 2015.
- 13.14 **“Framework agreement”** is an agreement between one or more contracting authorities and one or more contractors, 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.
- 13.15 **“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
- 13.16 **“j Policies”** means the Council’s policies on managing and processing information accessible here: <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/information-management-policies.html>
- 13.17 **“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.
- 13.18 **“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.
- 13.19 **“OJEU”** means the Official Journal of the European Union.



- 13.20 **“Procurement”** means the acquisition by means of a public contract of works, goods or services by one or more contracting authorities from contractors chosen by those contracting authorities, whether or not the works, goods 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.
- 13.21 **“Procurement Toolkit”** means the document issued by CSG Procurement that provides further guidance on compliant best practice Procurement
- 13.22 **“Public Contracts Regulations 2015”** are the regulations implementing EU Directive 2014/24/EU of the European Parliament and Council into English Law
- 13.23 **“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.
- 13.24 **“Quotation”** means a priced bid for the provision of goods, a service, or supply of works.
- 13.25 **“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 goods, 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 £10,000.
- 13.26 **“Scheme of Delegation”** means the scheme of delegation of decision making to Council officers set out in the Council’s Constitution
- 13.27 **“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
- 13.28 **“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.
- 13.29 **“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 winning bidder is to provide at point of proceeding to contract award.
- 13.30 **“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.

- 13.31    **“Works”** means building & engineering works, construction and refurbishment, including capital works.

## Authorisation and Acceptance Thresholds

	Procurement value	Authorisation to commence a procurement process & Documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
<b>A</b>	Under £10,000 (Purchase Order)	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail	Reasonable means of selection* and evidence of having sourced and considered the local Barnet supplier market	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail	Must move to next threshold if £10,000 or above  <b>Authorisation documentation:</b> Audit trail	Purchase Order
<b>B</b>	£10,000 – £50,000	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought**	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Must move to next threshold if above £50,000  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Purchase Order  Signed contract over £25k value

<b>C</b>	£50,001 – £164,175	<p>Council Officer as designated by approved Scheme of Delegation; or Committee</p> <p><b>Authorisation documentation:</b> Chief Officer List of Decisions; or Procurement Forward Plan</p>	<p>Below £100K minimum 2 written Competitive Quotations sought</p> <p>No SQ - Suitability Assessment Questions only</p>	<p>Council Officer as designated by approved Scheme of Delegation</p> <p><b>Authorisation documentation:</b> Chief Officer List of Decisions</p>	Chief Officer List of Decisions	Signed contract
<b>D</b>	£164,176 – £500,000	<p>Chief Officer in consultation with Committee Chairman; or Committee (P&amp;R or Relevant Thematic Committee)</p> <p><b>Authorisation documentation:</b> Full DPR (Chief Officer in consultation with Committee Chairman); Relevant Thematic Committee Decision; or Procurement Forward Plan;</p>	<p>Services/Goods – OJEU Tender</p> <p>Works – Competitive Quotation</p>	<p>Chief Officer in consultation with Committee Chairman</p> <p><b>Authorisation documentation:</b> Full DPR (Chief Officer in consultation with Committee Chairman)</p>	If within Budget - Relevant Thematic Committee	<p>Standstill Notification letter released following statutory officer report review</p> <p>Publication of report post standstill period</p> <p>Signed and sealed contract</p>

E	£500,000 and above	<b>Authorisation documentation:</b> Relevant Theme Committee Decision; or Procurement Forward Plan	Competitive quotation for works contracts for values £500,000 to £4,104,393  Works and Concession Contracts: Full OJEU Tender above £4,104,394  Goods: Full OJEU Tender  Services: Full OJEU Tender  Health, educational, cultural and social care related services: Light Touch Regime Tender above. £589,148)	<b>Authorisation documentation:</b>  If within Budget- Full DPR (Committee Chairman jointly with chief officer)  If not within Budget: Relevant Thematic Committee Report; or Policy and Resources 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
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# Contract Procedure Rules

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## 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.~~

## 21 APPLICATION

- 1.1 Under section 135 of the Local Government Act 1972 the council must make standing orders with respect to contracts for the supply of goods or materials or for the execution of works.
- 2.11.2 These Contract Procedure Rules provide the governance structure within which for the Council may to procure works, supplies goods and services. The aims of these rules are to:
- ensure value for money and propriety in the spending of public money;
  - enable works, supplies goods 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 possibility of challenge arising from non-compliant Procurement activity; and
  - ensure compliance with current the Law
- 1.3 These Contract Procedure Rules apply to all persons everyone who commissions and or procures s contracts on behalf of the Council, including external consultants or and third party service providers.

~~1.4 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.~~

~~2.2 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.~~

~~1.5 Refer to any approved Scheme of Delegation to identify any manager with the right to undertake Procurement. Approved Officers (Heads of Service and above) are accountable for all Procurement in their respective area of responsibility including following the Contract Procedure Rules and complying with operational procurement guidelines and codes of practice. All Officers must ensure that the Council's approved processes and standards for Procurement, as set out in the Procurement Toolkit are adhered to. This includes ensuring staff attend relevant training. All information governance, insurance, safeguarding, social value (including Support to Local Community), conflict of interest and business continuity requirements must be adhered to in line with the Procurement Toolkit and the Council's Information Governance Policies.~~

~~as delegated by the Deputy Chief Executive, Assistant Chief Executive, their 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 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.~~

~~1.6 The Director of Commercial Services in consultation with the Director of Resources shall maintain and issue the Contract Procedure Rules.~~

~~1.7 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 relevant Law will be reflected in these Contract Procedure Rules.~~

~~2.3 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).~~

## **32 SCOPE**

~~3.12.1~~ The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding on Procurement, such as grant allocation, received by the Council from external sources.

- ~~3.22.2~~ The Contract Procedure Rules do not apply to Non-Procurement activities ~~as defined as set out~~ in Section ~~1613.17-18~~ (Definitions) of these Contract Procedure Rules. ~~Payments to third parties for Non-Procurement these activities shall be are~~ subject to authorisation by ~~the Director of~~ Finance.
- ~~3.32.3~~ 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.
- ~~3.42.4~~ 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~~ ~~These Contract Procedure Rules do not apply to any acquisition or disposal of A~~any interest in land, ~~or to any~~ 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.~~
- ~~3.62.5~~ Section 75 National Health Services Act 2006 arrangements between NHS bodies and the council are not subject to these Contract Procedure Rules though Procurement activities undertaken under any such arrangements may be.

## ~~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 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;~~

## **63 CONTRACT VALUE CALCULATION**

- ~~6.13.1~~ 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. 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.
- ~~6.23.2~~ 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 for the suppliesgoods 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.
- ~~6.33.3~~ Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of Contract Procedure ~~these~~ Rules or the Law.
- ~~6.43.4~~ 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 to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.

## 74 AUTHORISATION

- 7.14.1 Any Procurement, including extensions and variations to Contracts ~~(permitted within the existing Contract)~~ submitted set out in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee, is deemed as Authorised irrespective of the Contract value.
- 7.24.2 Any Procurement which has not been Authorised as set out in 75.1 must be Authorised in accordance with ~~- Article 10 of the Constitution, Table B, Appendix 1 Table A of these Contract Procedure Rules.~~

## 85 PROCUREMENT METHOD

- 8.15.1 Where a Procurement will result in a Framework Agreement, Dynamic Purchasing System or Contract refer to Article 10 of the Constitution, Table B 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.
- 8.25.2 All ~~requirements beneath Procurement of Contracts with an estimated value at or below £9,999~~ 10,000.00 are subject to ~~r~~Reasonable means of selection including confirmation of budget and consideration ~~to of~~ Barnet's local supplier base, and SMEs. All tender opportunities for works, goods or services, over £10,000 (except for ~~S~~social ~~C~~care ~~P~~placements, ~~S~~special ~~E~~ducational ~~N~~needs listed in 85.8 and ~~Non-Procurement~~ activities defined in ~~1613.187~~) must be ~~released~~ advertised using the CSG e-procurement portal and in accordance with Article 10 of the Constitution, Table B Appendix 1, Table A and be subject to Tender Review.
- 8.35.3 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. CSG Procurement will arrange this.
- 8.45.4 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.
- 8.55.5 ~~Where the Procurement is carried out in accordance with the Constitution 8.1 above and results in Call-Off Contracts under~~ 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.
- 8.65.6 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.

8.75.7 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.

8.85.8 For ~~Non-Procurement~~ activities 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 Article 10 (Decision-Making) as set out in the Constitution.

8.95.9 Procurement activity for Contracts for certain health, social, community, educational and cultural related services, "Light-Touch Regime 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

5.10 For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.

8.105.11 For Contracts Under the OJEU financial threshold the Commercial Services Director may waive the requirement to seek 2 written quotes subject to a Summary DPR being provided, demonstrating that the market place has been fully tested and the Council has obtained value for money.

8.115.12 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.~~

8.125.13 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, suppliesgoods or services

## 96 SINGLE TENDER ACTION

6.1 A single tender action or commitment is not allowed unless it is in compliance with the Law and approved in advance by the Director of Commercial Services. Single tender action is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise.

9.16.2 ~~For Contact values above the EU financial threshold~~ Single tender actions are permitted under Regulation 32 of The Public Contracts Regulations 2015 in the following exceptional circumstances. Officers must seek advice from CSG



Procurement if they believe that a single tender action may be justified.  
Exceptional circumstances may include:

- 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.

9.26.3 Where a competition has been undertaken, in accordance with Section ~~85~~, 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~~ an appropriate review being undertaken and an audit trail being available for inspection. The award of the Contract cannot proceed without this authorisation.

~~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).~~

## **107 CONCESSION CONTRACTS**

~~10.17.1~~ The Concession Contracts Regulations 2016 (CCR) apply to the award of works Concession Contracts or services Concession Contracts above £4,104,394

~~10.27.2~~ 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

~~10.37.3~~ The same general principles that apply to other ~~P~~procurement ~~rules activities also~~ 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.

~~10.47.4~~ Seek advice from CSG Procurement and/or Legal Services if you ~~are~~ consider that you might want to award a Concession Contract

## **~~INFORMATION GOVERNANCE~~**

~~10.5 — 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.~~

~~10.6 — 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.~~

## **11.8 ACCEPTANCE**

**11.18.1** Acceptance of Contracts must be in accordance with [Article 10 Table B of the Constitution](#), [Table B 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/contractor](#)

**11.28.2** 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/officer~~ of a service area [as per/under](#) the scheme of delegation [in the council's Constitution](#) 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.~~

**11.38.3** Acceptance thresholds for Contract extensions and variations ~~of all values~~ are [subject to further conditions as set out in Article 10 Table B of the Constitution](#) ~~Section 14 (Extensions and Variations) of these Contract Procedure Rules.~~

**11.48.4** The financial evaluation of tenders will be undertaken by:

- CSG Procurement if the Contract is valued at less than £164,176 for [suppliesgoods](#) or services or less than £4,104,394 for works; or;
- A Financial Officer as delegated by the [Chief Finance Officer](#) ~~Director of Finance~~ if: (a) the contract is valued at £164,176 or more, for [suppliesgoods](#) or services; or (b) the contract is valued at £4,104,394 or more for works; or (c) the [Director of Finance](#) ~~considers that the eContract is considered to have~~ [has a](#) significant impact on the ~~local community council's finances~~.

## **129 CONTRACT SIGNING and SEALING**

~~12.19.1~~ Every Contract ~~or Contract novation~~ must be in a form approved by ~~the Monitoring Officer (in consultation with Legal services~~ [HB Public Law](#)) or delegated officer, if its value exceeds £25,000 or where appropriate to the nature of the Contract.

~~12.29.2~~ All Contracts awarded following a Procurement process with a Contract value above the EU financial threshold shall be sealed unless ~~the Monitoring Officer~~ [HB Public Law Legal Services](#) or delegated officer directs otherwise.

~~12.39.3~~ Contracts, ~~Dynamic Purchasing Systems, approved lists or~~ [and](#) Framework Agreements ~~entered into with respect to the provision of social care to individual service users~~ must be sealed. Call-off ~~placements from~~ [Contracts from](#) a Framework Agreement under the EU financial threshold do not require sealing and need only be signed by ~~a Council the respective Director Officer~~ in accordance with the Scheme of Delegation.

~~12.49.4~~ Where ~~the Monitoring Officer~~ [HB Public Law Legal services](#) or delegated officer considers it ~~desirable appropriate~~ that a Contract should be sealed other than as specified above, then such a Contract must be sealed.

## **1310 CONTRACT MANAGEMENT**

~~13.110.1~~ During the life of the Contract ~~the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors, and Heads of Service~~ [Approved Officers](#) 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 ~~all Approved Officers the Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors or Heads of Service~~ must ensure that those responsible for managing ~~e~~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;~~

- ~~13.2 — 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.~~
- ~~13.3 — 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.~~
- ~~13.4 — 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.~~

- ~~13.5 — For all contracts, in excess of £25,000, business continuity must be discussed and a business continuity plan confirmed as part of contract delivery.~~
- ~~13.6 — 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.~~
- ~~13.7 — 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.~~

## 1411 EXTENSIONS and VARIATIONS

11.1 Contracts that have been originally advertised with extension options and which contain clear extension options can be extended subject to acceptance under Article 10 Table B of the Constitution and under Regulation 72 of the Public Contracts Regulations 2015 permits an certain amendments, extension and extensions or renewals of an existing Contract can be made without triggering a requirement for a new Procurement exercise in the following cases. Examples include:

- ~~(a)~~ where the Contract contains a change control process and the scope and nature of the changes that can be made and the conditions under which such a change can be made are clear;
  - ~~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 or circumstances have arisen that the Council could not reasonably have foreseen and that require an amendment to the existing Contract, in both cases provided that each change does not increase the Contract's value by more than 50 per cent as a result~~
  - corporate restructures, takeovers and mergers
  - 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 goods or services) or less than 15 per cent of the initial Contract value, in the case of a works contract.
  - The proposed modifications are insubstantial
- 
- 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)a) 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.~~

14.111.2 Commissioners must consult CSG Procurement to confirm that any of the circumstances set out in section 1411.1 above apply, permitting a Contract amendment, ~~extension,~~ extension or renewal and Commissioners must also comply with the Authorisation and Acceptance Thresholds in Article 10 of the Constitution, Table B Appendix 1 Table A.

14.211.3 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 Article 10 of the Constitution, Table B Appendix 1 Table A.

14.311.4 The value referred to in Article 10 of the Constitution, Table B 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.

14.411.5 In addition to the requirements of Regulation 72 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 Article 10 of the Constitution, Table B 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;~~

~~14.5~~11.6 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 Article 10 of the Constitution, Table B Appendix 1 Table A.

~~14.6~~11.7 If any of the conditions at ~~14.4 or 14.6~~11.5 or 11.6 cannot be met, then a new Procurement exercise must be commenced.

~~14.7~~11.8 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with Article 10 of the Constitution, Table B Appendix 1 Table A.

~~14.8~~ ~~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.~~

## 15.12 **WAIVERS**

~~15.1~~12.1 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 and Heads of Service~~ Approved Officers ~~Senior officers~~ 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.

~~15.2~~12.2 ~~The Deputy Chief Executive, Assistant Chief Executive, Strategic Directors, Assistant Directors and Heads of Service~~ Approved Officers 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.

~~15.3~~ ~~Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.~~

~~15.4~~12.3 Any waiver ~~can~~ should only be granted for a maximum period of 12 months, except in exceptional cases.

~~15.5~~12.4 Waivers cannot be granted where this would breach the Law



## 16.13 DEFINITIONS and INTERPRETATION

16.113.1 **“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.

16.213.2 **“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.

16.313.3 **“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.

16.413.4 **“Authorisation”** is the approval required to enable any Procurement to occur.

16.513.5 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery Unit.

16.613.6 **“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.

16.713.7 **“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~~ Legal Services.

16.813.8 **“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

16.913.9 **“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;

16.1013.10 **“DPR”** means Delegated Powers Report. Templates and guidance for completion are available from the ~~Assurance Group~~ (Governance).

16.1113.11 **“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.

16.1213.12 **“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.

~~16.13~~13.13 **“EU financial threshold”** means the financial threshold from time to time above which Procurement becomes subject to compliance with the Public Contracts Regulations 2015-European Union.

~~16.14~~13.14 **“Framework agreement”** is an agreement between one or more contracting authorities and one or more ~~economic operators~~contractors, 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.

~~16.15~~13.15 **“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

~~16.16~~ **“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~~

13.16 **“Information Governance Policies”** means the Council’s policies on managing and processing information accessible here: <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/information-management-policies.html> [insert link]

~~16.17~~13.17 **“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.

~~16.18~~13.18 **“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.

~~16.19~~13.19 **“OJEU”** means the Official Journal of the European Union.

16.2013.20 **“Procurement”** means the acquisition by means of a public contract of works, [supplies](#)[goods](#) or services by one or more contracting authorities from [economic operators](#)[contractors](#) chosen by those contracting authorities, whether or not the works, [supplies](#)[goods](#) 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.

13.21 **“Procurement Toolkit”** means the document [accessible here \[include link\]](#) issued by CSG Procurement that provides further guidance on compliant best practice Procurement

16.2113.22 **“Public Contracts Regulations 2015”** are the regulations implementing EU Directive 2014/24/EU of the European Parliament and Council into English Law

16.2213.23 **“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.

16.2313.24 **“Quotation”** means a priced bid for the provision of goods, a service, or supply of works.

13.25 **“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](#)[goods](#), 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](#)[10,000](#).

13.26 **“Scheme of Delegation”** means the scheme of delegation of decision making to Council officers set out in the Council’s Constitution

16.2413.27 **“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

16.2513.28 **“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.

16.2613.29 **“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 [winning bidder](#) is to provide at point of proceeding to contract award.

[16.2713.30](#) **“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.

[16.2813.31](#) **“Works”** means building & engineering works, construction and refurbishment, including capital works.

17 **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
<b>A</b>	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>B</b>	£10,000 to £50,000	Audit Trail	Procurement Forward Plan  Summary DPR	Minimum 2 written Competitive Quotations received**	Head of Service  Council Officer as designated by approved Scheme of Delegation	Audit Trail	Audit Trail	Purchase Order
<b>C</b>	£50,001 – £165,000	Director/Assistant Director	Chief Officer List of Decisions	Minimum 2 written Competitive Quotations	Council Officer as designated by approved Scheme of Delegation	Chief Officer List of Decisions	Chief Officer List of Decisions	Notification letter  Signed low value contract up to

Contract Procedure Rules  
October–December 2017

				received				£50k value		
				No PQQ— Suitability Assessment Questions only				Signed contract £50,001 to £164,176k		
D	£165,000 and £500,000	Committee Chairman jointly with Chief Officer	Full DPR	Works and Concession Contracts: Full OJEU Tender above £4,104,394	If within Budget- Council Officer in consultation with Chairman of relevant theme	If within Budget and agreed savings target on forward plan Officer Full DPR	If within Budget -Relevant Thematic Committee	Standstill Notification letter released following statutory officer report review		
				Beneath threshold above £100k minimum 5 competitive quotations						
				Goods: Full OJEU Tender						
	£500,000 and above	Relevant Thematic Committee or Procurement Forward Plan	Relevant Thematic Committee or Procurement Forward Plan	Services: Full OJEU Tender						Publication of report post standstill period
				Health, educational, cultural and social care related services: Light Touch Regime Tender above: £589,148}	Policy and Resources Committee			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.~~

## Authorisation and Acceptance Thresholds

	Procurement value	Authorisation to commence a procurement process & Documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
<b>A</b>	Under £10,000 (Purchase Order)	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail	Reasonable means of selection* and evidence of having sourced and considered the local Barnet supplier market	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail	Must move to next threshold if £10,000 or above  <b>Authorisation documentation:</b> Audit trail	Purchase Order
<b>B</b>	£10,000 – £50,000	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Audit trail; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought**	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Must move to next threshold if above £50,000  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Purchase Order  Signed contract over £25k value



C	£50,001 – £164,175	Council Officer as designated by approved Scheme of Delegation; or Committee  <b>Authorisation documentation:</b> Chief Officer List of Decisions; or Procurement Forward Plan	Below £100K minimum 2 written Competitive Quotations sought  No SQ - Suitability Assessment Questions only	Council Officer as designated by approved Scheme of Delegation  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Chief Officer List of Decisions	Signed contract
D	£164,176 – £500,000	<del>Committee Chairman jointly with Chief Officer in consultation with</del> <u>Committee Chairman</u> ; or Committee (P&R or Relevant Thematic Committee)  <b>Authorisation documentation:</b> Full DPR ( <del>Committee Chairman jointly with Chief Officer in consultation with</del> <u>Committee Chairman</u> ); Relevant Thematic Committee Decision; or Procurement	Services/Goods – OJEU Tender  Works – Competitive Quotation	<del>Committee Chairman jointly with Chief Officer in consultation with Committee Chairman</del>  <b>Authorisation documentation:</b> Full DPR ( <del>Committee Chairman jointly with chief officer Chief Officer in consultation with Committee Chairman</del> )	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

		Forward Plan;				
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E	£500,000 and above	<b>Authorisation documentation:</b> Relevant Theme Committee Decision; or Procurement Forward Plan	Competitive quotation for works contracts for values £500,000 to £4,104,393  Works and Concession Contracts: Full OJEU Tender above £4,104,394  Goods: Full OJEU Tender  Services: Full OJEU Tender  Health, educational, cultural and social care related services: Light Touch Regime Tender above. £589,148)	<b>Authorisation documentation:</b>  If within Budget- Full DPR (Committee Chairman jointly with chief officer)  If not within Budget: Relevant Thematic Committee Report; or Policy and Resources 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
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