

**MEETING**

**CONSTITUTION, ETHICS AND PROBITY COMMITTEE**

**DATE AND TIME**

**THURSDAY 22ND MARCH, 2018**

**AT 7.00 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ**

**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	Ross Houston	

**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

Media Relations contact: Sue Cocker 020 8359 7039

**ASSURANCE GROUP**

## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes of last meeting	5 - 6
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	7 - 130
8.	Any other item(s) that the Chairman decides are urgent	

### FACILITIES FOR PEOPLE WITH DISABILITIES

Hendon Town Hall has access for wheelchair users including lifts and toilets. If you wish to let us know in advance that you will be attending the meeting, please telephone Andrew Charlwood 020 8359 2014 [andrew.charlwood@barnet.gov.uk](mailto:andrew.charlwood@barnet.gov.uk). People with hearing difficulties who have a text phone, may telephone our minicom number on 020 8203 8942. All of our Committee Rooms also have induction loops.

### FIRE/EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by Committee staff or by uniformed custodians. It is vital you follow their instructions.

You should proceed calmly; do not run and do not use the lifts.

Do not stop to collect personal belongings

Once you are outside, please do not wait immediately next to the building, but move some

distance away and await further instructions.

Do not re-enter the building until told to do so.

This page is intentionally left blank

## Decisions of the Constitution, Ethics and Probity Committee

8 January 2018

Members Present:-

AGENDA ITEM 1

Councillor John Marshall (Chairman)

Councillor Richard Cornelius  
Councillor Ross Houston

Councillor Alan Schneiderman (In place of  
Councillor Barry Rawlings)  
Councillor Peter Zinkin (In place of  
Councillor Melvin Cohen)

Apologies for Absence:

Councillor Melvin Cohen  
Councillor Dr Devra Kay

Councillor Barry Rawlings  
Councillor Joan Scannell

### 1. MINUTES OF LAST MEETING

**RESOLVED** that the minutes of the special meeting held on 19 October 2017 be approved as a correct record.

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

An apology for absence had been received from Councillor Melvin Cohen who had been substituted for by Councillor Peter Zinkin.

An apology for absence had been received from Councillor Barry Rawlings who had been substituted for by Councillor Alan Schneiderman.

Apologies for absence had been received from Councillor Dr Devra Kay and Councillor Joan Scannell.

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

None.

### 4. REPORT OF THE MONITORING OFFICER

None.

### 5. PUBLIC QUESTION AND COMMENTS

None.

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

None.

## 7. CONSTITUTION REVIEW

The Chairman reported that the Financial Regulations (Appendices M and N) and Contract Procedure Rules (Appendices O and P) had been withdrawn from the agenda and would be considered at the next scheduled meeting on 22 March 2018. The Head of Governance reported that the authorisation and acceptance thresholds set out in Table A of the Contract Procedure Rules had been updated to clarify reporting requirements and thresholds, and that financial limits were required to be updated to be compliant with the new EU Thresholds which had come into force on 1 January 2018. It was noted that these changes needed to be implemented immediately. The Committee therefore agreed that the Monitoring Officer could use his delegated authority to update the tables (as set out in pages 227 – 229 of the agenda) in Article 10 and the Contract Procedure Rules.

In relation to the Members Planning Code of Practice, the Committee requested that the Monitoring Officer provide revised wording for following sentence at the next scheduled meeting of the Committee: “13.5 The Chairman should ensure:...the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined.”

**RESOLVED** that the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in Appendix A to Appendix L subject to the following amendments:

- 1. Members Planning Code – in section 13.5 bullet point 4, delete “meeting” and replace with “item”, amended wording to read:  
13.5 The Chairman should ensure:...Residents and applicants understand that the late submission of evidence could lead to the deferral of the item and may not be permitted without agreement of all parties.**
- 2. Members Licensing Code – delete section 3.2 and replace with the following:  
“A Member with a pecuniary interest may not exercise a right to speak at Licencing Committee or Sub-Committee, but may, after declaring their interest, make written representations to officers.”**
- 3. Add a new paragraph in section 3 (Political Neutrality of Officers) as follows:  
“Information received by officers at these meetings may be shared with other officers as is necessary but should not be shared with Members of another Political Party unless this is agreed and necessary.”**
- 4. Amend section 1 of the Access to Information Rules to delete “...will usually...” and add “Other than in emergency or other exceptional circumstances...” with the amended wording to read:  
“Other than in emergency or other exceptional circumstances the Council will give at least five clear working days’ 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/>”**

The meeting finished at 7.48 pm



## Constitution, Ethics and Probity Committee

22 March 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 – Contents of the Constitution Appendix B – Financial Regulations Appendix C – Financial Regulations (Tracked) Appendix D – Contract Procedure Rules Appendix E – Contract Procedure Rules (Tracked) Appendix F – Members Licensing Code Appendix G – Members Licesning Code (Tracked) Appendix H – Article 9 (Chief Officers) Appendix I – Article 9 (Chief Officers) (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 simplifying 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. A further meeting took place on 8 January 2018 where some of the revised Section 2 supporting documents were considered and approved. These were approved and subsequently adopted by Council on 30 January 2018. This report includes the remaining Section 2 supporting documents which will conclude the review and redrafting of the whole Constitution.</p>	

## Recommendations

- 1. 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 I.**
- 2. That the Committee recommend to Council the deletion of the Budget and Policy Framework Rules as these have been subsumed into the revised Financial Regulations.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 As reported to the Committee in June, October and January, 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 and some of the Section 2 supporting documents, the following further supporting documents have now been revised and are enclosed for consideration:
  - Contents of the Constitution
  - Financial Regulations
  - Contract Procedure Rules
  - Members Licensing Code
- 1.1 The new General Data Protection Regulation which comes into force 25 May 2018 will introduce a new category of statutory officer – the Data Protection Officer. As such, Article 9 (Chief Officer) is required to be updated to reflect the new post and associated responsibilities.
- 1.2 In addition to the changes referred to at 1.2 and 1.3 above, a number of additional housekeeping or other minor amendments are proposed as per the table below which the Committee are requested to consider. Any items agreed will be reported to the next meeting of Council with the associated tracked changes versions.



No.	Section	Reference	Issue Identified	Change Proposed
1	HR Regulations	2.1.4	<p>The Constitution currently states that Chief Officer Appointments Panel will make all chief officer appointments except for the Head of Paid Service (as this is a decision reserved for Full Council). There will occasionally be a requirement to appoint a chief officer on an interim basis (e.g. for maternity cover). In these circumstances, it is recommended that the Chief Executive be given authority to make interim chief officer appointments for up to a year following consultation with the Leader.</p> <p>In addition, it is recommended that chief officer appointments made by the Chief Officer Appointments Panel are reported to Full Council for noting.</p>	<p>Amend section 2.1.4 to include the following wording:</p> <p>“The Chief Executive has authority to make interim Chief Officer appointments for a period of up to a year following consultation with the Leader.</p> <p>Chief Officer appointments made by the Chief Officer Appointment Panel will be reported to Full Council for information.”</p>
2	Article 7 – Committees Sub-Committees Area Committees and Forums and the Local Strategic Partnership	Terms of Reference of Area Planning Committees	<p>A Member has proposed that applications to demolish buildings on the Council’s Local List be determined by the relevant Area Planning Committee. The proposal would only affect a small number of planning applications each year, but would ensure that the public have opportunity to make representations against demolition before Members make the final decision.</p>	<p>Add to the terms of reference of Area Planning Committees:</p> <p>“Applications to demolish buildings on the Council’s Local List.”</p>

No.	Section	Reference	Issue Identified	Change Proposed
3	Article 9 – Chief Officers	Section 9.1	Previous versions of the Constitution have given discretion to Chief Officers to refer matters that are technically within their delegated authority, but may be controversial, significant or sensitive, the ability to refer the matter to Members for decision. Chief Officers have requested that this provision be reinstated.	Amend section 9.1 b) i) to include a new sentence on limits of delegation as follows:  “Discretion to Refer Matters to Members: Where a Chief Officer believes that a matter that is within their delegated authority is significant or sensitive they have the discretion to refer it to Members for decision.”
4	Article 4 – The Full Council	Section 4.1	Full Council is the supreme decision-making body. Occasionally, there is a requirement for an urgent decision to be taken, or there is decision which falls within the terms of reference of a committee, but is so significant that it requires all Members to be aware of and determine. As such, it is proposed that Article 4 be amended to enable a decision to be referred to Full Council for determination for those reasons.	Amend section 4.1 to include:  “Make decisions on matters normally reserved to committees (except for planning and licensing matters) where an urgent decision is required or where the matter is so significant that it requires all Members to determine. Determination of whether a matter is urgent or significant will be made by Mayor and Chairman of relevant committee in consultation with Leader and relevant chief officer.”
5	Article 3 – Residents and Public Participation	Section 3.5 – Issues for Residents Forums	Currently Article 3 does not prescribe speaking times for residents addressing Residents Forums on issues raised. Governance Officers have recommended that a time limit of three minutes be introduced to be consistent with other speaking arrangements.	The Chairman will determine issues in the following way:  1. Residents will have the opportunity to discuss the issue raised <b>for up to three minutes.</b>  <i>Note: additional wording in bold</i>

No.	Section	Reference	Issue Identified	Change Proposed
6	Article 3 – Residents and Public Participation	3.3 – Comments to Committee	There is a discrepancy in Article 3 whereby a member of the public who is unable to attend can nominate someone to ask a supplemental question on their behalf, but there is no similar right to send a substitute to make a public comment. It is recommended that this right be added for consistency.	Add to section 3.3:  Residents making public comments are able to send a substitute if they are unable to attend a committee meeting.
7	Council Procedure Rules	9 – General Provisions for Motions and Amendments	Section 9 of the Council Procedure Rules outlines general provisions for dealing with motions and amendments. Section 9.3 only refers to Motions. In practice, this has been interpreted as applying to all items before Council (motions, committee reports and reports of officers). Amending section 9.3 as proposed will ensure that all scenarios are covered.	Amend section 9.3 as follows:  A Member may amend a Motion <del>in their name</del> <b>or report</b> by submitting the amendment in writing to the Head of Governance by 10.30am the working day before the meeting.

## **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 22 May 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&MId=9159&Ver=4>
- 6.3 Full Council, 30 January 2018, Report of the Constitution, Ethics and Probity Committee, Constitution Review:  
<http://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=162&MId=9161&Ver=4>

This page is intentionally left blank

# **LONDON BOROUGH OF BARNET**

## **CONTENTS OF THE CONSTITUTION**

### ***PART 1 – The Articles***

1. INTRODUCTION AND SUMMARY TO THE CONSTITUTION
2. ARTICLE 1 – The Constitution
  - Purpose, review, suspension of the Constitution
3. ARTICLE 2 – Members of the Council (Councillors)
  - Composition and eligibility
  - Election and terms of office
  - Roles and functions
  - Access to information
  - Special responsibilities
  - Rights to refer matter to parent committee / council
  - Key Decisions – definition
  - Members’ items for committee agenda
  - Rights to call-in planning applications
  - Requests to speak at planning committees
  - Rights to speak at other committees
  - Conduct
  - Allowances
4. ARTICLE 3 – Residents and Public Participation
  - Residents rights
  - Questions to Committee
  - Comments to Committee
  - Procedure for questions and comments at Committees
  - Issues for Residents Forum
  - Petitions
  - Requests to speak at Planning Committees
  - Complaints
  - Disorderly conduct
5. ARTICLE 4 – The Full Council
  - Role and function
  - Policy framework
  - Types of meeting

6. ARTICLE 5 – The Mayor and Chairing the Council
  - Role and function of the Mayor
  
7. ARTICLE 6 – The Leader
  - Leader of the Council
  - Conflicts of interest
  
8. ARTICLE 7 – Committees, Forums, Working Groups and Partnerships
  - Committees
  - Sub-Committees and Working Groups
  - Appointment of Members to Committees
  - Local Strategic Partnership
  - Responsibility for functions (by Committees/Forums/Boards)
  - Substitute Members at Committees
  - Quorums
  - Chairman of meetings
  - Minutes
  - Urgent business
  - Performance & Contract Management Committee – call-in procedure
  - Voting and recording of votes
  - Filming and recording of meetings
  
9. ARTICLE 8 – Joint Arrangement
  - Delegation to and from other local authorities
  - Contracting out
  
10. ARTICLE 9 – Chief Officers
  - Management structure
  - Chief Officers
  - Delegated authority to Chief Executive and Chief Officers
  - Statutory officers
  - Functions of Head of Paid Service (Chief Executive)
  - Functions of the Monitoring Officer
  - Functions of the Chief Finance Officer / s151 Officer
  - Functions of the Director of Children’s Services
  - Functions of the Director of Adult Social Services
  - Functions of the Director of Public Health
  - Duty to provide resources
  - Conduct
  - Employment



11. ARTICLE 10 – Decision Making

- Principles of decision-making
- Decision making by Full Council
- Decision making by Committees
- Decision making by Chief Officers in consultation with Chairmen of Theme Committees
- Decision making by Chief Officers
- Decision making by Council bodies acting as tribunals
- Urgent decisions
- Decisions relating to Property
- Decisions relating to Procurement

12. ARTICLE 11 – Finance, Contracts, and Legal Matters

- Financial management
- Contracts
- Legal proceedings
- Authentication of documents
- Common seal of the Council
- Sealing of documents

13. ARTICLE 12 – Review and Revision of the Constitution

- Committee System of Governance
- Procedure to change governance arrangements
- Duty to monitor and review the Constitution
- Changes to the Constitution

***Part 2 – Key Supporting Documents***

14. FULL COUNCIL PROCEDURE RULES

1. Annual meetings of the Council
2. Ordinary meetings
3. Extraordinary meetings
4. Budget Council meetings
5. Role of Mayor
6. Variation
7. Suspension of procedure rules
8. Validity of motions, amendments and questions
9. General provisions for motions and amendments
10. Motions and amendments which may be moved without notice
11. Division bell
12. Voting
13. Vote to be recorded

14. Division
15. Voting on appointments
16. Question time
17. General rules relating to council business items and motions
18. General rules that apply to question time

#### 15. ACCESS TO INFORMATION RULES

1. Notices of meetings
2. Access to agenda and reports before the meeting
3. Supply of copies
4. Access to minutes after the meeting
5. Background papers
6. Exclusion of access by the public to meetings
7. Exclusion of the public's access to reports
8. Joint committees
9. Members' rights to information relating to committees/council meetings

#### 16. FINANCIAL REGULATIONS

1. Introduction
2. Financial Planning and Financial Management
  - 2.1 Budget Strategy
  - 2.2 Medium Term Financial Strategy
  - 2.3 Annual Budget Setting
  - 2.4 Budget Management and Monitoring
  - 2.5 Closing of Accounts and Statement of Accounts
  - 2.6 Treasury Management Framework
3. Financial Administration, Systems and Procedures
  - 3.1 Accounting
  - 3.2 Banking Arrangements
  - 3.3 Assets
  - 3.4 Imprest Accounts
  - 3.5 Income
  - 3.6 Insurance
  - 3.7 Investments, Borrowing, Capital Financing and Trust Accounts
  - 3.8 Ordering of Supplies, Works and Services
  - 3.9 Amenity and Unofficial Funds
4. Risk Management and Control of Resources
  - 4.1 Risk Management
  - 4.2 Internal Control
  - 4.3 Internal Audit
  - 4.4 Corporate Anti-Fraud Team (CAFT)
  - 4.5 External Audit

5. Trading Accounts
6. External Arrangements
  - 6.1 Partnerships
  - 6.2 External Funding
  - 6.3 Work for Third Parties
  - 6.4 Alternative Delivery Models
7. Transparency

## 17. CONTRACT PROCEDURE RULES

1. Application
2. Contract Value Calculation
3. Authorisation
4. Procurement Method
5. Single Tender Action
6. Concession Contracts
7. Acceptance
8. Contract Signing and Sealing
9. Contract Management
10. Contract Extensions and Variations
11. Waivers

## 18. HUMAN RESOURCE REGULATIONS

1. The council establishment
2. Offer, appointment, varying and ending contracts of employment
3. Employee records
4. Salaries and allowances
5. Members' allowances
6. Pensions administration

## 19. MEMBERS' CODE OF CONDUCT

1. Introduction and interpretation
2. Scope
3. General obligations
4. Disclosure of pecuniary and non-pecuniary interests
5. Sensitive interests
6. Exemptions
7. Additional voluntary provisions
8. Form of registers and dispensations
  - Register of councillors' interests
  - Register of gifts or hospitality

## 20. MEMBERS' LICENSING CODE

1. Purpose
2. Context
3. Member interests
4. Predisposition, predetermination and bias
5. Applications submitted by the council, councillors or officers
6. Lobbying
7. Post submission discussions
8. Site visits
9. Appeals
10. Enforcement
11. Councillor training
12. Meetings of the committee

## 21. MEMBERS' PLANNING CODE

1. Purpose
2. Context
3. Member interests
4. Predisposition, predetermination and bias
5. Applications submitted by the council, councillors or officers
6. Lobbying
7. Pre-application discussions
8. Post submission discussions
9. Site visits
10. Appeals
11. Enforcement
12. Councillor training
13. Meetings of the committee

## 22. PROTOCOL FOR MEMBER/OFFICER RELATIONS

1. Context
2. Performance of officers
3. Political neutrality of officers
4. Whistleblowing

## 23. CODE OF CORPORATE GOVERNANCE

- Principles of good governance

## 24. MEMBERS' ALLOWANCES SCHEME

1. The scheme
2. Basic allowance
3. Special responsibility allowances
4. Childcare and dependent carer's allowance
5. Travel and subsistence allowance

6. Independent members, independent persons, and co-optees' allowances
  7. Pensions
  8. Financial limits
  9. Renunciation
  10. Part year entitlements
  11. Claims, payments, repayments, restrictions to entitlements.
- Schedule 1: Special Responsibility Allowances
- Schedule 2: Approved Duties
- Schedule 3: Travel and Subsistence Allowances

This page is intentionally left blank

# **X\_financialregs Financial Regulations**

1. Introduction
2. Financial Planning and Financial Management
  - 2.1 Budget Strategy
  - 2.2 Medium Term Financial Strategy
  - 2.3 Annual Budget Setting
  - 2.4 Budget Management and Monitoring
  - 2.5 Closing of Accounts and Statement of Accounts
  - 2.6 Treasury Management Framework
3. Financial Administration, Systems and Procedures
  - 3.1 Accounting
  - 3.2 Banking Arrangements
  - 3.3 Assets
  - 3.4 Imprest Accounts
  - 3.5 Income
  - 3.6 Insurance
  - 3.7 Investments, Borrowing, Capital Financing and Trust Accounts
  - 3.8 Ordering of Supplies, Works and Services
  - 3.9 Amenity and Unofficial Funds
4. Risk Management and Control of Resources
  - 4.1 Risk Management
  - 4.2 Internal Control
  - 4.3 Internal Audit
  - 4.4 Corporate Anti-Fraud Team (CAFT)
  - 4.5 External Audit
5. Trading Accounts
6. External Arrangements
  - 6.1 Partnerships
  - 6.2 External Funding
  - 6.3 Work for Third Parties
  - 6.4 Alternative Delivery Models
7. Transparency

## **1. INTRODUCTION**

- 1.1 The Financial Regulations provide the framework for managing the financial affairs of the Council. These Financial Regulations should apply to all Members, officers, contractors and partners in the work they do for the Council.
- 1.2 The Director of Resources, is the Chief Finance Officer, also known as the s151 Officer, and has statutory duties in relation to the financial administration and stewardship of the Council.
- 1.3 The Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts.
- 1.4 The Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised. .
- 1.5 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.
- 1.6 These procedures shall be reviewed regularly by the Chief Finance Officer but at least every three years. The Constitution, Ethics and Probity Committee recommend to Council for approval all amendments and summaries of changes resulting from the review.
- 1.7 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.

## **2. FINANCIAL PLANNING AND FINANCIAL MANAGEMENT**

### **2.1 BUDGET STRATEGY**

- 2.1.1 The Budget Strategy, sets out the Council's proposed income and expenditure, both revenue and capital, and the level of council tax, for the following financial year, including the way in which corporate service priorities are considered, the level of balances and reserves, and the management of financial risks.
- 2.1.2 The Council's policies for the recovery of debt are separately approved by the Policy and Resources Committee.
- 2.1.3 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.



## **2.2 MEDIUM TERM FINANCIAL STRATEGY**

- 2.2.1 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.
- 2.2.2 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.
- 2.2.3 The Financial Forward Plan will cover revenue and capital budgets, and will highlight how resources are being re-directed to address Corporate Plan priorities.
- 2.2.4 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.

## **2.3 ANNUAL BUDGET SETTING**

- 2.3.1 The Council will publish a draft budget for consultation. Arrangements for budget consultation will be determined by the Council.
- 2.3.2 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.
- 2.3.3 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.
- 2.3.4 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.
- 2.3.5 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.
- 2.3.6 Fees and Charges  
The budget recommended by Policy and Resources Committee will incorporate the latest projection of income from fees and charges.

- 2.3.7 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.
- 2.3.8 Changes to fees and charges approved by theme Committees, Planning Committee and Licensing Committee must be reported to Policy and Resources Committee for noting.
- 2.3.9 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

- 2.3.10 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.
- 3.3.11 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 as soon as possible and at least 5 clear days before the Council meeting so that s/he 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.

## **2.4 BUDGET MANAGEMENT & MONITORING**

- 2.4.1 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.
- 2.4.2 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.
- 2.4.3 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 approved 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.

2.4.4 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.

2.4.5 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

2.4.6 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

2.4.7 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.

- 2.4.8 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.

#### Budget Monitoring – Capital

- 2.4.9 Forecast overspends on approved capital projects must be communicated through the Chief Finance Officer to the Chairman of the Policy & Resources Committee as soon as possible with options for offsetting the forecast overspend.

- 2.4.10 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

- 2.4.11 The Chief Finance Officer will determine which budget risks and uncertainties are to be held within the central contingency.

- 2.4.12 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.

- 2.4.13 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

- 2.4.14 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.

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

#### Budget Monitoring – reporting

- 2.4.16 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 and will make recommendations for varying the approved budget (revenue and capital) where necessary.

#### 2.4.17 Full Year Effects

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

#### 2.4.18 Annual Governance Statement

Chief Officers must support the work on corporate risk management contributing to the production of the Annual Governance Statement that has to be published alongside the Statement of Accounts.

#### 2.4.19 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.

#### 2.4.20 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.

2.4.21 Emergency payments can only be made by decision of Urgency Committee or by Chief Officers up to their delegated financial limit of £180k. All such emergency payments should be reported to the next meeting of the Performance & Contract Management Committee.

### **2.5 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS**

2.5.1 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.

2.5.2 Chief Officers are responsible for ensuring that 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.

2.5.3 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. These reports will be considered by the Audit Committee.

### **2.6 TREASURY MANAGEMENT FRAMEWORK**

- 2.6.1 Policy and Resources Committee will create and maintain a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities and based upon the relevant CIPFA Codes.
- 2.6.2 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.
- 2.6.3 The Chief Finance Officer has the delegated authority to undertake long term borrowing on behalf of the Council in line with the Treasury Management Strategy Statement Authority agreed by Council each year 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. FINANCIAL ADMINISTRATION, SYSTEMS AND PROCEDURES**

#### **3.1 ACCOUNTING**

- 3.1.1 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.
- 3.1.2 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.
- 3.1.3 All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer.

#### **3.2 BANKING ARRANGEMENTS**

- 3.2.1 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.
- 3.2.2 The Chief Finance Officer will maintain a register of all bank and card acquiring contracts.
- 3.2.3 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.
- 3.2.4 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.

3.2.5 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.

### **3.3 ASSETS**

3.3.1 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.

3.3.2 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.

3.3.3 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.

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

### **3.4 IMPREST ACCOUNTS**

3.4.1 The Chief Finance Officer must authorise all imprest accounts and the Imprest Account Holder must comply with the rules set by the Chief Finance Officer.

### **3.5 INCOME**

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

3.5.2 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.

3.5.3 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.

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

3.5.5 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.

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

- 3.5.7 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.
- 3.5.8 No deductions may be made from monies received.
- 3.5.9 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.
- 3.5.10 Invoicing & Debt Recovery  
Officers responsible for raising invoices must ensure that VAT has been properly accounted for.
- 3.5.11 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.

## **3.6 INSURANCE**

- 3.6.1 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, and will report any changes to Policy & Resources Committee.
- 3.6.2 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.
- 3.6.3 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.
- 3.6.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.
- 3.6.5 Officers must consult the Chief Finance Officer and Monitoring Officer in all cases where the Council is requested to give an indemnity.
- 3.6.6 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.
- 3.6.7 Schools: 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.



- 3.6.8 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.

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

- 3.7.1 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.
- 3.7.2 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.
- 3.7.3 All securities shall be held securely by the Council's bankers, or custodians approved at the Policy and Resources Committee.
- 3.7.4 The Chief Finance Officer shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.
- 3.7.5 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.

### **3.8 ORDERING OF SUPPLIES, WORKS & SERVICES**

- 3.8.1 All contracts are subject to the Contract Procedure Rules and 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.
- 3.8.2 **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.
- 3.8.3 All invoices must reference a valid purchase order number, otherwise the Central Accounts Payable Team reserves the right to refuse payment of an invoice.
- 3.8.4 To enable the Council to comply with the Late Payment of Commercial Debts Regulations, no amended invoices will be accepted and a new invoice with a revised date will be required.
- 3.8.5 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.

- 3.8.6 **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.

### **3.9 TAXATION**

- 3.9.1 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.

### **3.10 AMENITY & UNOFFICIAL FUNDS**

- 3.10.1 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.
- 3.10.2 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.
- 3.10.3 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 RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **4.1 RISK MANAGEMENT**

- 4.1.1 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.

### **4.2 INTERNAL CONTROL**

- 4.2.1 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.
- 4.2.2 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.

- 4.2.3 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.

### **4.3 INTERNAL AUDIT**

- 4.3.1 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.

- 4.3.2 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.

- 4.3.3 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.

- 4.3.4 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 as may be necessary.

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

- 4.3.6 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.

- 4.3.7 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.

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

- 4.4.1 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.
- 4.4.2 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.
- 4.4.3 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.
- 4.4.4 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.
- 4.4.5 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.
- 4.4.6 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:
- 4.4.7 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).

## **4.5 EXTERNAL AUDIT**

- 4.5.1 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.
- 4.5.2 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.
- 4.5.3 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.

## **5. TRADING ACCOUNTS**

- 5.1 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units, where appropriate.
- 5.2 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.
- 5.3 The Chief Officer must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **6. EXTERNAL ARRANGEMENTS**

### **6.1 PARTNERSHIPS**

- 6.1.1 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.
- 6.1.2 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.
- 6.1.3 Chief Officers are responsible for ensuring that appropriate work is undertaken and committee approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- 6.1.4 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.
- 6.1.5 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

- 6.1.6 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 £1m Assistant Director (or named equivalent) following consultation with the Chief Finance Officer.
- Over £1m and 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.

- 6.1.7 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.

## **6.2 EXTERNAL FUNDING**

- 6.2.1 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.
- 6.2.2 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.
- 6.2.3 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.
- 6.2.4 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed
- 6.2.5 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.

## **6.3 WORK FOR THIRD PARTIES**

- 6.3.1 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work.
- 6.3.2 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 unnecessarily exposed to the risk of bad debts.
- 6.3.3 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.

- 6.3.4 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.

## **6.4 ALTERNATIVE DELIVERY MODELS**

- 6.4.1 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)
- (ii) Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking.
- (iii) Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission
- (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..
- (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 –

- 6.4.2 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.

- 6.4.3 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.

## **7. TRANSPARENCY**

- 7.1.1 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

- 1 Introduction
- ~~2 Responsibilities~~
- ~~23~~ Financial Planning and Financial Management
  - ~~23.1~~ Budget Strategy
  - ~~23.2~~ Medium Term Financial Strategy
  - ~~23.3~~ Annual Budget Setting
  - ~~23.4~~ Budget Management and Monitoring
  - ~~23.5~~ Closing of Accounts and Statement of Accounts
  - ~~23.6~~ Treasury Management Framework
  - ~~3.7~~ ~~Pension Fund Management~~
- ~~34~~ Financial Administration, Systems and Procedures
  - ~~34.1~~ Accounting
  - ~~34.2~~ Banking Arrangements
  - ~~34.3~~ Assets
  - ~~34.4~~ Imprest Accounts
  - ~~34.5~~ Income
  - ~~34.6~~ Insurance
  - ~~34.7~~ Investments, Borrowing, Capital Financing and Trust Accounts
  - ~~34.8~~ Ordering of Supplies, Works and Services
  - ~~4.9~~ ~~Salaries, Pensions and Allowances~~
  - ~~34.910~~ Amenity and Unofficial Funds
- ~~45.~~ Risk Management and Control of Resources
  - ~~45.1~~ Risk Management
  - ~~45.2~~ Internal Control
  - ~~45.3~~ Internal Audit
  - ~~45.4~~ Corporate Anti-Fraud Team (CAFT)
  - ~~45.5~~ External Audit
- ~~56.~~ Trading Accounts
- ~~67.~~ External Arrangements
  - ~~67.1~~ Partnerships
  - ~~67.2~~ External Funding
  - ~~67.3~~ Work for Third Parties
  - ~~67.4~~ Alternative Delivery Models
- ~~78.~~ 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.~~

~~1.21.1~~ The Financial Regulations provide the framework for managing the financial affairs of the Council. These Financial Regulations should apply to all Mmembers, officers, contractors and partners in the work they do for the Council.

~~1.31.2~~ The Director of Resources, is the in the role as Chief Finance Officer, also known as the s151 Officer, and 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:~~

~~1.7 The proper administration of the Council's financial affairs~~

~~1.8 Setting of, and monitoring compliance with, financial management standards~~

~~1.9 Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.~~

~~1.10 Providing financial information~~

~~1.11 Preparing the revenue budget and capital programme (in conjunction with Chief Officers)~~

~~1.12 Treasury management~~

~~1.13 Reporting on the adequacy of reserves and the robustness of the budget estimates when the annual budget is being considered (ARTICLE 9)~~

~~1.14 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:~~

~~1.15 Has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful~~

~~1.16— 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 (ARTICLE 9).~~

~~1.17— Section 114 also requires the Chief Finance Officer to:~~

~~1.18— 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.~~

~~1.19— 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.~~

~~1.39~~ 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.~~

~~1.410~~ 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 (repeats 1.1).~~

~~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.~~

~~1.52.3~~ 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. (should be in contract of employment)~~
- ~~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 (should be in contract of employment).~~
- ~~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. (should be in contract of employment)~~
- ~~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. (should be in budget holders contracts of employment)~~
- ~~2.8 These Financial Regulations shall not override any statutory provisions that apply.~~
- ~~1.62.9 These procedures shall be reviewed regularly by the Chief Finance Officer but at least every three years. The Constitution, Ethics and Probity Committee **recommend to Council for approval** 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.~~
- ~~1.72.12 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.~~

## **23. FINANCIAL PLANNING AND FINANCIAL MANAGEMENT**

### **23.1 BUDGET STRATEGY**

~~23.1.1~~ The Budget Strategy, ~~approved by Full Council~~, sets out the Council's proposed income and expenditure, both revenue and capital, and the level of council tax, for the following financial year, approach on a range of issues, including: 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)~~; and the management of financial risks,

~~23.1.2~~ 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. (see later)~~

~~23.1.3~~ 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.

## ~~23.2~~ **MEDIUM TERM FINANCIAL STRATEGY**

~~23.2.1~~ 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.

~~23.2.2~~ 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.

~~23.2.3~~ 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.~~

23.2.46 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.

### **23.3 ANNUAL BUDGET SETTING**

23.3.1 The Council will publish a draft budget for consultation. Arrangements for budget consultation will be determined by the Council.

23.3.2 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.

23.3.3 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.

23.3.4 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.~~

~~23.3.56~~ 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.

#### ~~23.3.67~~ Fees and Charges

The budget recommended by Policy and Resources Committee will incorporate the latest projection of income from fees and charges.

~~23.3.78~~ 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.

~~23.3.89~~ Changes to fees and charges approved by theme Committees, Planning Committee and Licensing Committee must be reported to Policy and Resources Committee for noting.

~~23.3.910~~ 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

~~23.3.1011~~ 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.

#### ~~3.3.112~~ Alternative Budget Motions

Any ~~M~~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 as soon as possible and 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.~~

## **23.4 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. (need not be stated)~~

### 23.4.13 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.

23.4.24 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.

23.4.35 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

23.4.46 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.

23.4.57 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: <ol 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> </ol>
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

23.4.68 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

23.4.79 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.

23.4.810 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

~~23.4.914 Forecast overspends on approved capital projects must be communicated through the Chief Finance Officer **to the Chairman of the Policy & Resources Committee as soon as possible immediately**. Having notified the Chief Finance Officer, the Chief Officer must submit with 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.~~

~~23.4.106~~ 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

~~23.4.117~~ The Chief Finance Officer will determine which budget risks and uncertainties are to be held within the central contingency.

~~23.4.128~~ 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.

~~23.4.139~~ 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~~

~~23.4.1424~~ 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.~~

~~23.4.1523~~ Any significant change in the planned use of a reserve must be approved by the Policy and Resources Committee.

#### Budget Monitoring – reporting

~~23.4.1624~~ 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 and.

~~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) where necessary 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.~~

#### 23.4.127 Full Year Effects

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

#### 23.4.128 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.~~

#### 23.4.129 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.~~

#### 23.4.2034 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.

23.4.2132 Emergency payments can only be made **by decision of the Urgency Committee or by Chief Officers up to their delegated financial limit of £180k and all such emergency payments should be reported to the next meeting of the Performance & Contract Management Committee.** ~~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.~~

## **23.5 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS**

**23.5.1** 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.

**23.5.2** 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.~~

**23.5.36** 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. **These reports will be considered by the Audit Committee.**

## **23.6 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.~~

**23.6.13** Policy and Resources Committee will create and maintain a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities **and based upon the relevant CIPFA Codes.-**

~~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 these activities.~~

~~23.6.25~~ 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.

~~23.6.36~~ The Chief Finance Officer has the delegated authority to undertake long term borrowing on behalf of the Authority Council in line with the Treasury Management Strategy Statement Authority agreed by Council each year 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.(Article7)~~

### ~~3.7 PENSION FUND MANAGEMENT~~ ~~(place into scheme of delegation if not already there)~~

~~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~~

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

### **34.1 ACCOUNTING**

**34.1.1** 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.

**34.1.2** 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.

**34.1.3** All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer.

### **34.2 BANKING ARRANGEMENTS**

**34.2.1** 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.

**34.2.2** The Chief Finance Officer will maintain a register of all bank and card acquiring contracts.

**34.2.3** 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.

34.2.4 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.

34.2.5 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.

### **34.3 ASSETS**

34.3.1 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.

34.3.2 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.

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.

~~34.3.4 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.~~

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

### **34.4 IMPREST ACCOUNTS**

34.4.1 The Chief Finance Officer must authorise all imprest accounts and the Imprest Account Holder must comply with the rules set by the Chief Finance Officer.

~~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.~~

### **34.5 INCOME**



- 34.5.1 The Council will usually charge for all services, where allowable, and have charging policies in place.
- 34.5.2 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.
- 34.5.3 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.
- 34.5.4 Officers responsible for controlled stationery must keep it secure. Methods of payment must be agreed by the Chief Finance Officer.
- 34.5.5 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.
- 34.5.6 Officers receiving monies shall keep an accurate and chronological account of all receipts and bankings.
- 34.5.7 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.
- 34.5.8 No deductions may be made from monies received.
- 34.5.9 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.
- 34.5.10 Invoicing & Debt Recovery  
Officers responsible for raising invoices must ensure that VAT has been properly accounted for.
- 34.5.11 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.

## 34.6 **INSURANCE**

- 34.6.1 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 and report to Policy & Resources Committee annually.
- 34.6.2 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.

34.6.3 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.

34.6.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.

34.6.5 Officers must consult the Chief Finance Officer and Monitoring Officer in all cases where the Council is requested to give an indemnity.

34.6.6 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.~~

34.6.78 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.

34.6.89 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.

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

34.7.1 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.

34.7.2 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.

~~34.7.3 All securities shall be held securely by the Council's bankers, or custodians approved at the Policy and Resources Committee.~~

~~34.7.4 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.~~

~~34.7.56 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.~~

## **34.8 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~~

34.8.14 All contracts are subject to the Contract Procedure Rules and 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.

34.8.25 **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.

34.8.36 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.~~

34.8.48 To enable the Council to comply with the Late Payment of Commercial Debts Regulations, no amended invoices will be accepted and a new invoice with a revised date will be required. ~~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~~

34.8.510 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.

34.8.614 **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.~~

## 3.4.910 TAXATION

~~3.9.14.10.4~~ 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.

### **3.4.1110 AMENITY & UNOFFICIAL FUNDS**

~~34.104.1~~ 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.

~~3.10.24.11.2~~ 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.

~~3.10.34.11.3~~ 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).~~

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

### **45.1 RISK MANAGEMENT**

45.1.1 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.~~

### **45.2 INTERNAL CONTROL**

45.2.1 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.

45.2.2 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.

45.2.3 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.

### **45.3 INTERNAL AUDIT**

45.3.1 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.

~~45.3.2 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.~~

45.3.3 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.~~

45.3.45 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 as may be necessary 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.~~

~~45.3.59~~ 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.~~

~~45.3.612~~ 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.

~~45.3.713~~ 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.

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

**45.4.1** 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.~~

#### **45.4.23 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.

**45.4.34** 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.

**4.5.4.45** 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.~~

#### 45.4.57 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.~~

45.4.610 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:

45.4.711 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).

#### 45.5 EXTERNAL AUDIT

45.5.1 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.~~

45.5.23 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.

45.5.34 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.

## **56. 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.~~

5.16.2 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.~~

5.26.4 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.

5.36.5 The Chief Officer must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **67. EXTERNAL ARRANGEMENTS**

### **67.1 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.~~

~~67.1.12~~ 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.

~~67.1.23~~ 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.

~~6.7.1.34~~ Chief Officers are responsible for ensuring that appropriate work is undertaken and committee 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.~~

~~67.1.45~~ 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.~~

~~67.1.56~~ 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

~~67.1.67~~ 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 £~~1m500,000~~ Assistant Directors (or named equivalent) 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.

~~67.1.78~~ 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.

## **~~67.2~~ 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.

~~67.2.12~~ 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.~~

~~67.2.24~~ 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.

~~67.2.35~~ 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.~~

~~67.2.46~~ 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.~~

~~67.2.58~~ 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.~~

### **67.3 WORK FOR THIRD PARTIES**

~~67.3.1 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.~~

~~67.3.2 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 unnecessarily exposed to the risk of bad debts.~~

~~67.3.3 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.~~

~~67.3.4 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.~~

### **67.4 ALTERNATIVE DELIVERY MODELS**

~~67.4.1 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.~~

~~67.4.23~~ 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).~~

~~67.4.36~~ 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.



## **78. TRANSPARENCY**

**78.1.1** 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/>

This page is intentionally left blank



# Contract Procedure Rules

## 1 APPLICATION

- 1.1 These Contract Procedure Rules provide the governance structure for the Council to procure works, goods and services.
- 1.2 These mandatory Contract Procedure Rules apply to everyone who commissions or procures contracts on behalf of the Council, including external consultants and third party providers.
- 1.3 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.
- 1.4 All Officers must ensure that the Council's approved processes and standards for Procurement, as set out in the Procurement Toolkit are adhered to. 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 whereby 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. 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 under section 75 of the 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 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.
- 3.3 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 4.1 must be Authorised in accordance with Article 10 of the Constitution, Table B.

### **5 PROCUREMENT METHOD**

- 5.1 The method of procurement is set out in Article 10 of the Constitution, Table B.
- 5.2 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.

- 5.3 Commissioners may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots. If commissioners decide not to subdivide into lots they must document the main reasons for their decision.
- 5.4 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.
- 5.5 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.
- 5.6 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 £615,278 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.
- 5.7 For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.
- 5.8 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.
- 5.9 The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view.
- 5.10 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 is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise. This is permitted only in exceptional circumstances and should be approved in advance by the Commercial Director. Procurement advice should be sought in all cases. Exceptional circumstances may include where the works, supplies or services can be supplied only by a particular supplier.
- 6.2 Where a competition has been undertaken and only a single bid has been received the Commercial Director can approve the award of a Contract, subject to an appropriate review being undertaken and an audit trail being available for inspection.

## **7 CONCESSION CONTRACTS**

- 7.1 Concession Contracts are contracts under which the council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. The key feature is that the contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs.
- 7.2 Concession Contracts must meet certain requirements and advice should be sought from Legal Services and CSG Procurement.

## **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 £181,302 for goods or services or less than £4,551,413 for works, or;
- A Financial Officer as delegated by the Director of Finance if: (a) the contract is valued at £181,302 or more, for goods or services; or (b) the contract is valued at £4,551,413 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.

## **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, subject to submit financial limits. Where necessary seek advice from Legal and CSG Procurement.
- 11.2 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.



- 11.3 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.
- 11.4 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);
- 11.5 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.
- 11.6 If any of the conditions at 11.4 or 11.5 cannot be met, then a new Procurement exercise must be commenced.
- 11.7 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 (Heads of Service or above) 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.

This page is intentionally left blank



# Contract Procedure Rules

## CONTENTS

1	APPLICATION .....	3
2	SCOPE.....	4
3	CONTRACT VALUE CALCULATION .....	4
4	AUTHORISATION.....	5
5	PROCUREMENT METHOD .....	5
6	SINGLE TENDER ACTION .....	6
7	CONCESSION CONTRACTS .....	8
8	ACCEPTANCE.....	8
9	CONTRACT SIGNING and SEALING.....	9
10	CONTRACT MANAGEMENT .....	9
11	EXTENSIONS and VARIATIONS.....	9
12	WAIVERS .....	11
13	DEFINITIONS and INTERPRETATION .....	11

## 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:~~
- ~~1.3 ensure value for money and propriety in the spending of public money;~~
- ~~1.4 enable works, goods and services to be delivered effectively and efficiently without compromising the Council's ability to influence strategic decisions;~~
- ~~1.5 ensure that the Council is not exposed to unnecessary risk and possibility of challenge arising from non-compliant Procurement activity; and~~
- ~~1.61.1 ensure compliance with the Law~~

~~1.71.2~~ These mandatory 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.~~

~~1.3~~ 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.

~~1.81.4~~ 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.

~~1.91.5~~ The Director of Commercial Services in consultation with the Director of Resources shall maintain and issue the Contract Procedure Rules.

~~1.101.6~~ 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 whereby 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.~~ Payments to third parties for these activities are subject to authorisation by Finance.

~~2.22.3~~ 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.

~~2.32.4~~ 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.

~~2.42.5~~ These Contract Procedure Rules do not apply to any acquisition or disposal of any interest in land, or to any transaction in land ~~under s~~Section 75 of the National Health Services Act 2006; arrangements between NHS bodies and the council are not subject to these Contract Procedure Rules though ~~p~~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.~~

~~3.33.2~~ 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.

~~3.43.3~~ 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 4.1 must be Authorised in accordance with Article 10 of the Constitution, Table B.

## 5 PROCUREMENT METHOD

~~5.1 The method of procurement is set out in Article 10 of the Constitution, Table B. 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.~~

~~5.35.2~~ 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.

~~5.45.3~~ 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-If commissioners decide not to subdivide into 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.~~

~~5.65.4~~ 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.~~

~~5.85.5~~ 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~~Article 10 (Decision-Making) as set out in the Constitution.

~~5.95.6~~ 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 £~~615,278 589,148~~ 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~~

~~5.105.7~~ For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.

~~5.115.8~~ 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.

~~5.125.9~~ The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view.



~~5.13~~5.10 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~~ 6.1 A Single Tender Action is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise. This is permitted only in exceptional circumstances and should be approved in advance by the Commercial Director. Procurement advice should be sought in all cases. Exceptional circumstances may include where the works, supplies or services can be supplied only by a particular supplier.

~~6.2~~ 6.2 Where a competition has been undertaken and only a single bid has been received the Commercial Director can approve the award of a Contract, subject to an appropriate review being undertaken and an audit trail being available for inspection.

~~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 the Chief officer and CSG Procurement if they believe that a single tender action may be justified. Exceptional circumstances may include:

~~6.3~~ — 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 but otherwise contact the Chief Officer and CSG Procurement for any of the following reasons:~~

~~the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance;~~

~~competition is absent for technical reasons;~~

~~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.~~

~~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 are contracts under which the council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. The key feature is that the contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs. are contracts with a private company that give the company the right to operate a specific business and contracts between the owner of a facility and the concession owners that grant the latter exclusive rights to operate a specific business in the facility. 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 and advice should be sought from ~~the Chief Officer~~ Legal Services and CSG Procurement.:

- ~~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~~

~~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.~~

~~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:

~~8.2~~ Budget provision;

~~8.3~~ a compliant Procurement process; and

~~8.4~~ ~~8.1~~ confirmation of acceptable financial status of the contractor.

~~8.5~~ ~~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.

~~8.6~~ ~~8.3~~ Acceptance thresholds for Contract extensions and variations are set out in Article 10 Table B of the Constitution.

~~8.7~~ ~~8.4~~ The financial evaluation of tenders will be undertaken by:

- CSG Procurement if the Contract is valued at less than ~~£164,176~~ ~~£181,302~~ for goods or services or less than ~~£4,104,394~~ ~~£551,413~~ for works, or;

- A Financial Officer as delegated by the Director of Finance if: (a) the contract is valued at ~~£164,176~~£181,302 or more, for goods or services; or (b) the contract is valued at ~~£4,104,394~~£4,551,413 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, subject to submit financial limits. Where necessary seek advice from the Chief officer Legal and CSG Procurement. ~~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~~ 11.2 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~~ 11.3 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~~ 11.4 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~~ 11.5 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~~11.6 If any of the conditions at ~~11.5~~11.4 or ~~11.6~~11.5 cannot be met, then a new Procurement exercise must be commenced.

~~11.8~~11.7 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 (Heads of Service or above) 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 **“**Information Governance Policies**”** means the Council’s policies on managing and processing information accessible here [\[insert link\]](#)

- 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)	Approved Officer  <b>Authorisation documentation:</b> Audit trail	Reasonable and evidence of having considered the local Barnet supplier market	Approved Officer  <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	Approved Officer  <b>Authorisation documentation:</b> Audit trail	Minimum 2 written quotations	Approved Officer  <b>Authorisation documentation:</b> Audit trail	Must move to next threshold if above £50,000  <b>Authorisation documentation:</b> Audit trail	Purchase Order  Signed contract over £25k value

C	£50,001 – £164,175	Approved Officer  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Minimum 2 written quotations  No SQ – Suitability Assessment Questions only	Approved Officer  <b>Authorisation documentation:</b> Chief Officer List of Decisions	Chief Officer List of Decisions	Signed contract
D	£164,176 – £500,000	Chief Officer in consultation with Theme Committee Chairman  <b>Authorisation documentation:</b> Full DPR	Services/Goods – OJEU Tender  Works – Competitive Quotation	Chief Officer in consultation with Committee Chairman  <b>Authorisation documentation:</b> Full DPR	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

			Competitive quotation for works contracts for values £500,000 to £4,104,393			Standstill Notification letter released following statutory officer report review
£	£500,000 and above	<b>Authorisation documentation:</b> Relevant Theme Committee Decision; or Procurement Forward Plan	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	Publication of report post standstill period  Signed and sealed contract

## **MEMBERS' LICENSING CODE**

### **1 PURPOSE OF THIS CODE**

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

### **2 CONTEXT**

- 2.1 Licensing decisions are often based on balancing competing interests and making an informed judgement having taken account of all the evidence presented. Decision makers need to make fair and open decisions that are in the wider public interest on what can be controversial proposals regardless of personal or political allegiances.
- 2.2 Licensing decisions can be controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.3 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. 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.
- 2.4 One of the key aims of the licensing system is to balance private interests against the wider public interest. Opposing views are often strongly held by those involved. Whilst Councillors who sit on licensing 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.
- 2.5 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***

- 2.6 Members 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. In licensing matters, unlike planning, officers present only the facts and do not form a view as this is for Members of the committee alone to determine.
- 2.7 Members must not put pressure on officers to deal with a licensing 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 licensing file and considered together with other material licensing considerations.
- 2.9 When Members are making Licensing decisions, they must be open-minded: a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself.

### **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 Licensing Committee he or she should raise this with the Monitoring Officer as soon as possible.
- 3.2 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 premises in the vicinity of 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.
- 3.3 Where a Member has a pecuniary interest relating to an application s/he may not sit on the committee (including sub-committee) hearing that application. Any Member, whether or not a Member of the committee, with a pecuniary interest is precluded from making representations orally to the committee either as a Member or in a private capacity and precluded from making representations on behalf of a party to the hearing.
- 3.4 A Member 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.

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

- 4.1 Licensing 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 Member 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 Member 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 Member was biased.
- 4.5 For example, a Member 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 Licensing 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 not be able to sit on the committee hearing the proposal as this would amount to predetermination.

- 4.7 Participation as a Member in a Licensing Committee where a Member is or may be perceived to be biased, in addition to the risk of a complaint against the individual Member, also places the decision of the Committee at risk from legal challenge. As such, if a Licensing 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 (MEMBERS) OR OFFICERS**

- 5.1 Licence applications by the council for its own use could give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for licences associated with the council's own use will be treated no differently from any other application.
- 5.2 Certain Members may through their other roles outside of a Licensing 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 Member 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 Members or officers.
- 5.3 It is perfectly legitimate for licensing 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 Member 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 Member who acts as an agent or representative for someone pursuing a licensing matter with the authority should also take no part in its processing and/or its determination.
- 5.5 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 Licensing Authority.
- 5.6 The term "Officers of the Local Licensing Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's



licensing function and include all external persons such as lawyers, contractors and advisors who work for the Local Licensing Authority.

## **6 LOBBYING**

6.1 Lobbying is not a permitted part of the licensing process. Those who may be affected by a licensing 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 Licensing Committee.

6.2 A Licensing Committee Member should explain to those lobbying or attempting to lobby them that the law does not allow them to discuss the matter before the hearing. Licensing Committee Members should therefore:

- suggest to lobbyists that they write to the Licensing 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 Licensing Service as soon as practicably possible so that, if appropriate, 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 licensing 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 POST-SUBMISSION DISCUSSIONS**

7.1 A Licensing Committee Member should not usually be involved in discussions with an applicant or agent when a licensing 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.

7.2 In limited circumstances Licensing Committee Members may legitimately engage in post-submission discussions.

7.3 If a Licensing 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 Licensing Committee Member should report to the chief licensing officers 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 licensing file.

- 7.4 Licensing Committee Members should not attend post-submission meetings that are not organised through officers.
- 7.5 Members should report any substantive discussion with applicants to the chief licensing officer.

## **8 SITE VISITS**

- 8.1 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 licensing application and which would not be apparent from the licensing application to be considered by a Licensing 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.
- 8.2 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.
- 8.3 Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be to brief Members on the licensing applications(s) the subject of the visit.
- 8.4 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.
- 8.5 Whilst on site visits, Members of Licensing Committee should not express an opinion on the licensing 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.
- 8.6 A site visit should not be on the basis of exposing Members of the Licensing Committee (including sub-committees) to local opinion but should be to explore the licensing issues in the application.

## **10. LICENSING APPEALS**

- 10.1 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. 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.
- 10.2 An appeal against the decision of the Licensing Committee is made to the Court while a complaint about the way in which that decision was made can be made to the Ombudsman
- 10.3 Where the Licensing Committee refuses an application and there is an appeal Members may attend the appeal as observers if they so wish. The decision of

the Committee will be documented in the minute and set out in the decision notice.

## **11. LICENSING ENFORCEMENT**

- 11.1 Members should bring to the attention of the Licensing Service suspected breaches of licensing 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 licensing officer.

## **12. COUNCILLOR TRAINING**

- 12.1 All new Members, newly appointed Chairmen and returning Members of the Council's 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.

## **13 MEETINGS OF THE LICENSING COMMITTEE**

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

- 13.2 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.

- 13.3 The Chairman should ensure:

- Members' comments at Committee only relate to the licensing merits of the application before them;
- reference at Committee to non-licensing issues by Members and those giving evidence 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 further representations could lead to the deferral of the meeting and the further representations may not be permitted without agreement of all parties.

This page is intentionally left blank

# Members' Licensing Code

## 1 PURPOSE OF THIS CODE

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

## 2 CONTEXT

- 2.1 Licensing decisions are often based on balancing competing interests and making an informed judgement having taken account of all the evidence presented. Decision makers need to make fair and open decisions that are in the wider public interest on what can be controversial proposals regardless of personal or political allegiances.
- 2.2 Licensing decisions can be controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.3 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. 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.
- 2.4 One of the key aims of the licensing system is to balance private interests against the wider public interest. Opposing views are often strongly held by those involved. Whilst Councillors who sit on licensing 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.
- 2.5 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**

- 2.6 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. In licensing matters, unlike planning, officers present only the facts and do not form a view as this is for Members of the committee alone to determine.
- 2.7 ~~Licensing 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. (officers are completely neutral)~~
- 2.8 Members must not put pressure on officers to ~~put forward a particular recommendation or~~ deal with a licensing 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 licensing file and considered together with other material licensing considerations.
- 2.9 When Members are making Licensing decisions, they must be open-minded: a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself.

## **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 Licensing Committee he or she should raise this with the Monitoring Officer as soon as possible.
- 3.2 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 premises in the vicinity of 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.

3.3 Where a Member has a pecuniary interest relating to an application s/he may not sit on the committee (including sub-committee) hearing that application. Any Member, whether or not a Member of the committee, with a pecuniary interest is precluded from making representations orally to the committee either as a Member or in a private capacity and precluded from making representations on behalf of a party to the hearing. ~~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.~~

3.4 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.

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

4.1 Licensing 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 Licensing 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 not be able to sit on the committee hearing the proposal as this would amount to predetermination. ~~need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the licensing application. If they have predetermined their position 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 Licensing 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 Licensing 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**

- 5.1 Licence applications by the council for its own use could give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for licences associated with the council’s own use will be treated no differently from any other application.



- 5.2 Certain Councillors may through their other roles outside of a Licensing 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 licensing 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 licensing matter with the authority should also take no part in its processing and/or its determination.
- 5.5 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 Licensing Authority.
- 5.6 The term "Officers of the Local Licensing Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's licensing function and include all external persons such as lawyers, contractors and advisors who work for the Local Licensing Authority.

## 6 LOBBYING

- 6.1 Lobbying is not a permitted a normal part of the licensing process. Those who may be affected by a licensing 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 Licensing Committee.
- ~~6.2 It is essential for the proper operation of the licensing 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 Licensing Committee Member should explain to those lobbying or attempting to lobby them that the law does not allow them to discuss the matter before the hearing., 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. Licensing 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 licensing matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.~~

~~6.56.2~~ Licensing Committee Members should therefore:

- suggest to lobbyists that they write to the Licensing 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 Licensing Service as soon as practicably possible so that, if appropriate, 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 licensing 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 POST-SUBMISSION DISCUSSIONS**

7.1 A Licensing Committee Member should not usually be involved in discussions with an applicant or agent when a licensing 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.

7.2 In limited circumstances Licensing Committee Members may legitimately engage in post-submission discussions.

- 7.3 If a Licensing 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 Licensing Committee Member should report to the chief licensing officers 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 [licensing planning](#) file.
- 7.4 Licensing Committee Members should not attend post-submission meetings that are not organised through officers.
- 7.5 Councillors should report any substantive discussion with applicants to the chief licensing officer.

## **8 SITE VISITS**

- 8.1 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 licensing application and which would not be apparent from the licensing application to be considered by a Licensing 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.
- 8.2 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.
- 8.3 Under the Chairman's guidance the role of the Licensing Officer attending the site visit will be to brief Members on the licensing applications(s) the subject of the visit.
- 8.4 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.
- 8.5 Whilst on site visits, Members of Licensing Committee should not express an opinion on the licensing 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.
- ~~8.6 Members of the licensing committee who were not present at a pre-arranged site visit should not seek to defer consideration of the licensing application.~~
- 8.7 A site visit should not be on the basis of exposing Members of the Licensing Committee ([including sub-committees](#)) to local opinion but should be to explore the licensing issues in the application.

## **10. LICENSING APPEALS**

- 10.1 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the

Local Government Ombudsman. 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.

10.2 An appeal against the decision of the Licensing Committee is made to the Court while a complaint about the way in which that decision was made can be made to the Ombudsman

10.3 Where the Licensing Committee refuses an application and there is an appeal ~~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 licensing officer will present the Council's case on its licensing merits, in accordance with the Committee's decision with such assistance from the nominated Committee Member as may be required.~~

## **11. LICENSING ENFORCEMENT**

11.1 Councillors should bring to the attention of the Licensing Service suspected breaches of licensing 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 licensing officer.

## **12. COUNCILLOR TRAINING**

12.1 All new Members, newly appointed Chairmen and returning Members of the Council's 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.

## **13 MEETINGS OF THE LICENSING COMMITTEE**

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

13.2 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.

13.3 The Chairman should ensure:

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

- reference at Committee to non-licensing issues by Members and those giving evidence 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 [further representations evidence](#) could lead to the deferral of the meeting and [the further representations](#) may not be permitted without agreement of all parties.

This page is intentionally left blank

## Article 9 – Chief Officers

### 9.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Apart from those officers referred to in (b) immediately below, all officers are appointed by the Chief Executive.
- (b) **Chief Officers.** Members will appoint staff for the following posts, who will be designated Chief Officers:

Chief Executive (Head of Paid Service)  
Deputy Chief Executive  
Assistant Chief Executive  
Strategic Director, Children and Young People  
Strategic Director, Adults, Communities and Health  
Strategic Director, Environment  
Director of Resources (Chief Finance Officer / Section 151 Officer)  
Director of Public Health

#### Delegated Authority to Chief Executive and Chief Officers

(i) Chief Officers (Deputy Chief Executive, Assistant Chief Executive, Strategic Directors for Adults, Children and Environment, Director of Resources) have the following delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council:

(a) to make decisions and approve expenditure relating to their functions and the functions of their Department, where necessary in accordance with (b) and (c) below, and providing (1) that the sum expended is within the approved budget for the Department and/or relevant portfolio, and (2) the amount in relation to any single matter does not exceed £181,302.

(b) to determine employment matters relating to staff including all changes to staffing structures. This power will not include changes to terms and conditions of employment or additional payments to any individual member of staff above £100K.

(c) to approve tender strategies and award contracts in accordance with the Council's Contract Procedure Rules within Part 2 of the Constitution.

(d) the Chief Executive has all the above delegated authority and as may be necessary, determine which Department discharges any particular Council function if this is not clear.

(ii) These powers may be delegated further under a Scheme of Delegation and powers are also delegated to all officers in accordance with their job description and department budget.

(iii) Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and all decisions with a value of £50,000 or more made by officers under delegated powers should be listed in writing and a copy of the list for each Department produced to the Chief Executive and the Leader on the 30<sup>th</sup> September and 31<sup>st</sup> March of each year.

(iv) The Chief Executive and Chief Officers may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

**(c) Statutory Officers**

The Council will designate the following posts as shown:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Chief Legal Advisor	Monitoring Officer
Director of Resources	Chief Finance Officer / Section 151 Officer
Strategic Director, Children and Young People	Director of Children's Services
Strategic Director, Adults Communities and Health	Director for Adult Social Services
Director of Public Health	Director of Public Health
Data Protection Officer	Data Protection Officer

**9.2 Functions of Head of Paid Service**

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restriction of functions.** The Head of Paid Service may not be the Monitoring Officer or the Data Protection Officer, but may hold the post of Chief Finance Officer if a qualified accountant.



- (c) The Head of Paid Service has authority over all other chief officers so far as is necessary for efficient management and for carrying out the Council's functions.

### 9.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer, in consultation with the Head of Governance, will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and the Assistant Chief Executive, the Monitoring Officer will report to the full council if s/he considers that any proposal, decision or omission which is referred by Harrow and Barnet Public Law or which is otherwise notified to him/her, would give rise to unlawfulness or if any decision or omission so referred would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Ensuring lawfulness and fairness of council operating procedures.** After consulting with the Head of Governance and the relevant senior line manager the Monitoring Officer will report to the Head of Paid Service and the Assistant Chief Executive any council process or procedure which s/he considers would give rise to unlawfulness or if any such process or procedure would give rise to maladministration.
- (d) **Managing the relationship with Harrow & Barnet Public Law.** As Chief Legal Advisor within the council, responsibility to manage the strategic relationship with Harrow & Barnet Public Law to ensure the council continues to be provided with a legal service which meets its needs and to advise the Head of Paid Service and Assistant Chief Executive where any risks are identified.
- (e) **Supporting the Constitution, Ethics and Probity Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution, Ethics and Probity Committee.
- (f) **Conducting investigations.** The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Member Code of Conduct. Then s/he or they will make reports and recommendations in respect of such allegations in accordance with the procedure for handling complaints against Members.
- (g) **Providing legal advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) **Register of Members Interests.** The Monitoring Officer will keep and maintain the Register of Members Interests and ensure its availability to the public.
- (i) **Restriction of functions.** The Monitoring Officer may not hold the post of Data Protection Officer.

#### **9.4 Functions of the Chief Finance Officer / Section 151 Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- (b) **Estimates and resources.** In accordance with the Local Government Act 2003 to advise on robustness of estimates and level of resources.
- (c) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.
- (d) **Providing financial advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **9.5 Functions of the Director of Children's Services**

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

#### **9.6 Functions of the Director of Adult Social Services**

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

## 9.7 Functions of the Director of Public Health (DPH)

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

## 9.8 Functions of the Data Protection Officer (DPO)

- (a) **Ensuring lawfulness and fairness of personal data processing.** The Data Protection Officer must be independently involved, properly and in a timely manner, in all issues which relate to the protection of personal data and seek to ensure compliance with all legislative provisions and council policies.
- (b) **Ensuring protection of personal data.** The Data Protection Officer, after consultation with the Head of Paid Service, may report to the supervisory authority any matters that the Data Protection Officer considers puts at risk the protection of personal data and data subjects' rights.
- (c) **Conducting data protection incident investigations.** The Data Protection Officer will conduct, or appoint officers or others to conduct, investigations into suspected or actual breaches of legislation related to the processing of personal data. The Data Protection Officer will independently decide whether an incident will be reported to the supervisory authority.
- (d) **Notification to the supervisory authority.** The Data Protection Officer will follow all requirements set by the supervisory authority in relation to notification or registration with the supervisory authority.
- (e) **Record of Processing Activity.** The Data Protection Officer will keep and maintain the Record of Processing Activity for the council and provide such to the supervisory authority on request.
- (f) **Support data subjects.** The Data Protection Officer shall be available to data subjects with regard to all issues related to the processing of their personal data and to the exercise of their rights.

- (g) **Acting in an independent manner.** The Data Protection Officer shall perform their tasks in an independent manner without receiving instruction from the council on how to exercise those tasks. The council must ensure that the Data Protection Officer does not perform a task or fulfil a duty where such task or duty would result in a conflict of interests.

**9.9 Duty to provide sufficient resources to the Monitoring Officer, Chief Finance Officer and Data Protection Officer**

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

**9.10 Conduct**

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

**9.11 Employment**

The recruitment, selection and dismissal of officers will comply with the Human Resources (HR) Regulations.

## Article 9 – Chief Officers

### 9.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Apart from those officers referred to in (b) immediately below, all officers are appointed by the Chief Executive.
- (b) **Chief Officers.** Members will appoint staff for the following posts, who will be designated Chief Officers:

Chief Executive (Head of Paid Service)  
Deputy Chief Executive  
Assistant Chief Executive  
Strategic Director, Children and Young People  
Strategic Director, Adults, Communities and Health  
Strategic Director, Environment  
Director of Resources (Chief Finance Officer / Section 151 Officer)  
Director of Public Health

#### Delegated Authority to Chief Executive and Chief Officers

(i) Chief Officers (Deputy Chief Executive, Assistant Chief Executive, Strategic Directors for Adults, Children and Environment, Director of Resources) have the following delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council:

(a) to make decisions and approve expenditure relating to their functions and the functions of their Department, where necessary in accordance with (b) and (c) below, and providing (1) that the sum expended is within the approved budget for the Department and/or relevant portfolio, and (2) the amount in relation to any single matter does not exceed £181,302.

(b) to determine employment matters relating to staff including all changes to staffing structures. This power will not include changes to terms and conditions of employment or additional payments to any individual member of staff above £100K.

(c) to approve tender strategies and award contracts in accordance with the Council's Contract Procedure Rules within Part 2 of the Constitution.

(d) the Chief Executive has all the above delegated authority and as may be necessary, determine which Department discharges any particular Council function if this is not clear.

(ii) These powers may be delegated further under a Scheme of Delegation and powers are also delegated to all officers in accordance with their job description and department budget.

(iii) Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and all decisions with a value of £50,000 or more made by officers under delegated powers should be listed in writing and a copy of the list for each Department produced to the Chief Executive and the Leader on the 30<sup>th</sup> September and 31<sup>st</sup> March of each year.

(iv) The Chief Executive and Chief Officers may exercise voting rights at general meetings of companies of which the Council is a member or by written resolution and may take any necessary action to protect, safeguard and effectively manage the Council's interest in such companies.

**(c) Statutory Officers**

The Council will designate the following posts as shown:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Chief Legal Advisor	Monitoring Officer
Director of Resources	Chief Finance Officer / Section 151 Officer
Strategic Director, Children and Young People	Director of Children's Services
Strategic Director, Adults Communities and Health	Director for Adult Social Services
Director of Public Health	Director of Public Health
<u>Data Protection Officer</u>	<u>Data Protection Officer</u>

**9.2 Functions of Head of Paid Service**

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restriction of functions.** The Head of Paid Service may not be the Monitoring Officer or the Data Protection Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

- (c) The Head of Paid Service has authority over all other chief officers so far as is necessary for efficient management and for carrying out the Council's functions.

### 9.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer, in consultation with the Head of Governance, will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and the Assistant Chief Executive, the Monitoring Officer will report to the full council if s/he considers that any proposal, decision or omission which is referred by Harrow and Barnet Public Law or which is otherwise notified to him/her, would give rise to unlawfulness or if any decision or omission so referred would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Ensuring lawfulness and fairness of council operating procedures.** After consulting with the Head of Governance and the relevant senior line manager the Monitoring Officer will report to the Head of Paid Service and the Assistant Chief Executive any council process or procedure which s/he considers would give rise to unlawfulness or if any such process or procedure would give rise to maladministration.
- (d) **Managing the relationship with Harrow & Barnet Public Law.** As Chief Legal Advisor within the council, responsibility to manage the strategic relationship with Harrow & Barnet Public Law to ensure the council continues to be provided with a legal service which meets its needs and to advise the Head of Paid Service and Assistant Chief Executive where any risks are identified.
- (e) **Supporting the Constitution, Ethics and Probity Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution, Ethics and Probity Committee.
- (f) **Conducting investigations.** The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Member Code of Conduct. Then s/he or they will make reports and recommendations in respect of such allegations in accordance with the procedure for handling complaints against Members.
- (g) **Providing legal advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) **Register of Members Interests.** The Monitoring Officer will keep and maintain the Register of Members Interests and ensure its availability to the public.
- (i) **Restriction of functions.** The Monitoring Officer may not hold the post of Data Protection Officer.

#### **9.4 Functions of the Chief Finance Officer / Section 151 Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- (b) **Estimates and resources.** In accordance with the Local Government Act 2003 to advise on robustness of estimates and level of resources.
- (c) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.
- (d) **Providing financial advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### **9.5 Functions of the Director of Children's Services**

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

#### **9.6 Functions of the Director of Adult Social Services**

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

#### **9.7 Functions of the Director of Public Health (DPH)**



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

## 9.8 Functions of the Data Protection Officer (DPO)

(a) Ensuring lawfulness and fairness of personal data processing. The Data Protection Officer must be independently involved, properly and in a timely manner, in all issues which relate to the protection of personal data and seek to ensure compliance with all legislative provisions and council policies.

(b) Ensuring protection of personal data. The Data Protection Officer, after consultation with the Head of Paid Service, may report to the supervisory authority any matters that the Data Protection Officer considers puts at risk the protection of personal data and data subjects' rights.

(c) Conducting data protection incident investigations. The Data Protection Officer will conduct, or appoint officers or others to conduct, investigations into suspected or actual breaches of legislation related to the processing of personal data. The Data Protection Officer will independently decide whether an incident will be reported to the supervisory authority.

(d) Notification to the supervisory authority. The Data Protection Officer will follow all requirements set by the supervisory authority in relation to notification or registration with the supervisory authority.

(a)(e) Record of Processing Activity. The Data Protection Officer will keep and maintain the Record of Processing Activity for the council and provide such to the supervisory authority on request.

(b)(f) Support data subjects. The Data Protection Officer shall be available to data subjects with regard to all issues related to the processing of their personal data and to the exercise of their rights.

(g) Acting in an independent manner. The Data Protection Officer shall perform their tasks in an independent manner without receiving instruction from the council on how to exercise those tasks. The council must ensure that the Data Protection Officer does not perform a task or fulfil a duty where such task or duty would result in a conflict of interests.

**9.9 Duty to provide sufficient resources to the Monitoring Officer, ~~and~~ Chief Finance Officer and Data Protection Officer**

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

**9.10 Conduct**

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

**9.11 Employment**

The recruitment, selection and dismissal of officers will comply with the Human Resources (HR) Regulations.