

MEETING

SPECIAL CONSTITUTION, ETHICS AND PROBITY COMMITTEE

DATE AND TIME

WEDNESDAY 10TH APRIL, 2013

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

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

Chairman: Councillor Melvin Cohen
Vice Chairman: Councillor Joan Scannell

Councillors

Jack Cohen	Anthony Finn	Barry Rawlings
Richard Cornelius	Andrew Harper	Alan Schneiderman
	Alison Moore	Andrew Strongolou

Substitute Members

Robert Rams	Julie Johnson	Lord Palmer OBE
Rowan Quigley Tuner	Jim Tierney	Susette Palmer

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

Andrew Nathan – Head of Governance

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ASSURANCE DIRECTORATE

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minute of Constitution, Ethics and Probity Committee on 28 March 2013	To Follow
2.	Absence of Members	
3.	Declaration of Members' Personal and Prejudicial Interests	
4.	Public Question Time (If any)	
5.	Members' Items (If any)	
6.	Constitutional Review	1 - 354

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Meeting	Special Constitution, Ethics and Probity Committee
Date	10 th April 2013
Subject	Constitutional Review
Report of	Assurance Director
Summary	This paper sets out the outcome of the Constitution Review for Members consideration and for decisions on proposed changes.

Officer Contributors	Maryellen Salter, Assurance Director Andrew Nathan, Head of Governance
Status (public or exempt)	Public
Wards Affected	None
Key Decision	N/A
Reason for urgency / exemption from call-in	N/A
Function of	Council
Enclosures	Appendix A Article 3 Appendix B Article 4 Appendix C Article 6 Appendix D Article 7 Appendix E Article 8 Appendix F Article 10 Appendix G Article 12 Appendix H Article 13 Appendix I Article 14 Appendix J Responsibility for Functions including Pension Fund Compliance Statement Council Procedure Rules including: <ul style="list-style-type: none"> • Appendix K Section 1 – The Council;

- Appendix L Section 2 – Committee & Sub-Committees;
- Appendix M Section 4 – Public Participation Rules);

Appendix N Access to Information Procedure Rules

Appendix O Budget and Policy Framework Procedure Rules

Appendix P Executive Procedure Rules

Appendix Q Overview and Scrutiny Procedure Rules

Appendix R Financial Regulations

Appendix S Contract Procedure Rules

Appendix T Management of Real Estate Property and Land

Appendix U Employment Procedure Rules

Codes and Protocols:

- Appendix V Code of Conduct for Members
- Appendix W Planning Code of Good Practice
- Appendix X Licensing Code of Good Practice
- Appendix Y Officer Code of Conduct
- Appendix Z Member Officer Relations

Appendix AA Code of Corporate Governance

Appendix AB Scheme of Delegation (to follow)

Contact for Further Information:

Maryellen Salter, Assurance Director, 020 8359 3167, maryellen.salter@barnet.gov.uk

1. RECOMMENDATIONS

- 1.1 That the Committee consider the proposed changes to the Constitution as set out in the report, and discuss the recommendations proposed.**
- 1.2 That the Committee delegate authority to the Assurance Director, in consultation with the Chairman, to bring forward any further proposals/amendments if, between the timing of the Constitution, Ethics and Probity Committee and Full Council, there are other aspects of the Constitution requiring amendment.**
- 1.3 That under Article 4.02 of the Constitution, these changes are recommended to Full Council for adoption.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 17 May 2010, Review of the Constitution 2010/11 – various changes recommended by the Special Committee (Constitution Review) were approved and adopted by the Council.
- 2.2 Council, 17 May 2011, Review of the Constitution 2011/12 – various changes recommended by the Special Committee (Constitution Review) were approved and adopted by the Council.
- 2.3 Special Committee (Constitution Review), 27 June 2012, Constitution Review 2012/13 – the Committee agreed some minor Constitutional changes and agreed the approach to reviewing the Constitution during 2012/13.
- 2.4 General Functions Committee, 23 April 2012, Reorganisation of the Senior Officers and Council Structures – the Committee agreed to changes to organisational structure.
- 2.5 Constitution, Ethics and Probity Committee, 22 October 2012, Constitution Review – the Committee agreed that a full review of the constitution should be undertaken to reflect the new organisational structure and incorporate changes required as a result of the Localism Act 2011 and other legislative changes.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 To ensure that the Council has robust corporate governance arrangements, that enable the Council to deliver its objectives set out in the Corporate Plan, the Constitution should be kept under review and subject to amendments and alterations periodically to ensure that it continues to be a living document and reflects the pace of change of the organisation as a whole.

4. RISK MANAGEMENT ISSUES

- 4.1 A key improvement area noted within the 2011-12 Annual Governance Statement reported as part of the financial statements was the following: *Governance, accountabilities and decision-making – the change in organisational form to support the externalisation of elements of support*

services and regulatory services requires an updated governance model which clarifies accountabilities and responsibilities and provides assurance to decision-making bodies.

- 4.2 Without effective governance structures in place, there is a risk of delays in decision making that may adversely impact the ability of Commissioners and Delivery Units to deliver outcomes for local people.

5. EQUALITIES AND DIVERSITY ISSUES

- 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. The regular review of the Constitution will help ensure that this is the case and ensure the Council is meeting its equality obligations.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The Constitutional Review is being undertaken, in consultation with Members, with senior management involvement across the Council. There are no specific budget implications arising from this review. However, the work will impact on arrangements for decision making involving finance, procurement, human resources and property.

7. LEGAL ISSUES

- 7.1 Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 made several changes such as removing the requirement for local authorities to produce a Forward Plan of key decisions and replaced with a requirement to publish an Advanced Notice of Proposed Decisions Under Executive Functions; requirements to publish the intention to hold private meetings, to publish Background papers electronically, and additional rights to Members of Overview and Scrutiny to request documents..
- 7.2 Localism Act 2011 and accompanying Neighbourhood Planning (General) Regulations 2012 – have introduced a new level of statutory planning. Changes are required to the constitution to ensure clear governance procedures for Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders. The Localism Act requires that every Council has a Code of Conduct for Members and a procedure for investigating complaints. These changes had previously been accounted for and adopted by Full Council and are excluded from this review.
- 7.3 This Constitutional Review does not suggest any legislative changes to the framework other than those described above. However legal services are completing their review of the changes for completeness and if any changes are suggested they will be considered as per recommendation 1.2. For completeness those sections that have been cleared by the shared legal service at the time of writing the report are:
- Articles 1, 2, and 5
 - Contract Procedure Rules and Code of Procurement Practice (Appendix S)

- Management of Real Estate, Property and Land (Appendix T)
- Officer Code of Conduct (Appendix Y)
- Member and Officer protocol (Appendix Z)

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Council Constitution, Article 12, paragraph 12.03 (a) – one of the functions of the Monitoring Officer is to maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by members, staff and the public.
- 8.2 Council Constitution, Part 3, Section 2 – details the functions of the Constitution, Ethics and Probity Committee, which are 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”.

9. BACKGROUND INFORMATION

- 9.1 At the Constitution, Ethics and Probity Committee meeting on 22 October 2012 it was agreed that a major review be undertaken of the Constitution to ensure that it meets the needs of the new organisation following the senior management restructure.
- 9.2 A four stage review has been carried out:
- Stage 1 – Evaluate existing arrangements
 - Stage 2 – Consider how recent commissioning / outsourcing changes will determine relevant elements of the constitution (subject to the outcome of the pending judicial review)
 - Stage 3 – Prepare first re-draft of the constitution for Member working group
 - Stage 4 – Member consideration and approval
- 9.3 Any proposals relating to changes in governance arrangements as a result of the provisions of the Localism Act 2011 (i.e. from Executive to Committee system form of governance, as agreed at Council on 22 January 2013) have been excluded from this review and a separate project will be undertaken during 2013-14.
- 9.4 There are a number of dependencies of this review, such as the timing of the legal review, as was considered appropriate that it was sent for legal consideration after such time as Members had considered proposals. As such the review will be an on-going process until the Full Council meeting in April 2013.
- 9.5 Proposed amendments to sections of the Constitution are set out in this report and the associated appendices for Members consideration. Subject matter experts across the Council have been involved in considering the relevance and readability of the current Constitution, and its accuracy in the light of policy and legislative changes.

9.6 Officers have held discussions with the Leaders of each political group to ensure the review process was iterative and subject to detailed discussion. A Consultative Working Group was set up to discuss proposals in detail following initial review and proposed options. The Consultative Working Group consisted of Members from the Constitution, Ethics and Probity Committee. The Consultative Working Group met over February and March 2013.

9.7 The following sections of the Constitution have been reviewed. Proposed amendments are set out in the appendices and the rationale behind these changes are set out in the report below:

- ***Preface to the Constitution***
- ***Summary and Explanation***
- Articles 1 to 16 (**Appendices A – I**)
- Responsibility for Functions including Pension Fund Compliance Statement (**Appendix J**)

Council Procedure Rules including:

- Section 1 – The Council (**Appendix K**)
- Section 2 – Committee & Sub-Committees (**Appendix L**)
- Section 3 – Panels and Consultative Bodies
- Section 4 – Public Participation Rules (**Appendix M**)

- Access to Information Procedure Rules (**Appendix N**)
- Budget and Policy Framework Procedure Rules (**Appendix O**)
- Executive Procedure Rules (**Appendix P**)
- Overview and Scrutiny Procedure Rules (**Appendix Q**)
- Financial Regulations (**Appendix R**)
- Contract Procedure Rules and Code of Procurement Practice (**Appendix S**)
- Management of Real Estate Property and Land (**Appendix T**)
- Officers Employment Procedure Rules (**Appendix U**)
- Codes and Protocols
 - Code of Conduct for Members (**Appendix V**)
 - Planning Code of Good Practice (**Appendix W**)
 - Licensing Code of Good Practice (**Appendix X**)
 - Officers Code of Conduct (**Appendix Y**)
 - Protocol for Member Officer Relations (**Appendix Z**)
- Code of Corporate Governance (**Appendix AA**)

- 9.8 The Members Allowances Scheme has been excluded from the review as it is unlikely that the allowances scheme would change unless there was a change in form of governance.
- 9.9 As a result of changes to the Constitution there is also a requirement to update the Officer Scheme of Delegation, which will be considered alongside this report as a separate appendix (Appendix AB-to follow). If there are further issues that arise between the meeting and the submission of recommendations to Council on 16 April 2013, including through further consideration by the Shared Legal Service, then authority is requested for the Assurance Director to make further changes in consultation with the Chairman. These will be included in the Head of Governance's report to the meeting.

PROPOSED AMENDMENTS:

- 9.10 Explanatory Notes – A review of the Constitution has highlighted that a number of sections contain explanatory notes. These were originally intended to provide Members and officers with additional information regarding the background or statutory basis for some of the rules contained in the Constitution. Officers are proposing that these notes are removed with any relevant wording being incorporated into appropriate section (or rule) of the Constitution. Removing explanatory notes will assist in reducing ambiguity as it is currently unclear whether explanatory notes constitute rules which need to be adhered to. Where explanatory notes have been removed or incorporated into sections of the Constitution, these will be referred to individually in the sections below.

9.11 Preface to the Constitution

- 9.11.1 It is recommended that this section be re-titled as 'Part 1 – Decision Making' and be merged with the 'Summary and Explanation' section.

This section will contain information on what the Constitution is, the Council's decision-making structure including Council functions, Executive functions and Overview and Scrutiny, and the rights of citizens in their dealings with the Council.

9.12 Part 2 – Articles of the Constitution

- 9.12 There are 16 Articles in the Constitution. Currently, there is duplication of information contained in other sections of the Constitution and the information presented is not clear or user-friendly. Some information contained in the Articles can be condensed or deleted. The sections below detail the proposed changes to each Article.

9.13 Article 1 – The Constitution

- 9.13.1 No changes proposed.

9.14 Article 2 – Members of the Council

- 9.14.1 No changes proposed.

9.15 Article 3 – Citizens and the Council (Appendix A)

9.15.1 Changes have taken place as follows:

- Delete references to the 'Public Participation' section and replace 'Public Engagement' (link to proposed change in Council Procedure Rules, section 4- as outlined at para 9.34);
- Delete references to the 'Forward Plan' and replaced with reference to the 'Advanced Notice of Proposed Decisions Under Executive Functions';
- Included additional text to reflect that members of the public have a right to participate in formal committee meetings (as set out in the Engagement rules) as well as overview and scrutiny working groups; and
- Revised text relating to complaints about Members following changes in the Standards regime.

9.15.2 A revised Article 3 is appended. The Committee are recommended to approve the changes contained therein.

9.16 Article 4 – The Full Council (Appendix B)

9.16.1 The list of items for Council decision (Policy Framework) has been updated following a review of statutory requirements relating to decisions reserved to Council. The list of Policy Framework documents has also been updated in the Responsibility for Functions section of the Constitution.

9.16.2 An explanatory note relating to bye-laws has been deleted, with relevant text incorporated into the body of the section and the Responsibility for Functions section of the Constitution.

9.16.3 A revised Article 4 is appended. The Committee are recommended to approve the changes contained therein.

9.17 Article 5 – Chairing the Council

9.17.1 No changes proposed.

9.18 Article 6 – Overview & Scrutiny (Appendix C)

9.18.1 Minor amendments have been made to improve the clarity of Article 6. This Article has been retained largely unchanged as it provides an overview of the roles and remit of scrutiny committees.

9.18.2 A revised Article 6 is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

9.19 Article 7 – The Executive (Appendix D)

9.19.1 The majority of this article has been retained as it refers to rules relating to the appointment of the Leader, Deputy Leader and Cabinet Members.

9.19.2 With reference to section 7.09, amendments have taken place to update post titles and structural changes within the health service (i.e. NHS Barnet will cease to exist and the council's primary health partners will be the Clinical Commissioning Group).

9.19.3 It is proposed that section 7.09 should be deleted as the council will have an established relationship with health partners via the Health and Well Being Board which becomes a decision making body on 1 April 2013, and has been incorporated in the Constitution.

9.19.4 A revised Article 7 is set out in the attached document pack. The Committee are recommended to:

- i) approve the changes contained therein; and
- ii) give instruction as to whether section 7.09 can be deleted.

9.20 Article 8 – Regulatory and other Committees (Appendix E)

This section is proposed to be retained largely unchanged, with the only amendments being typographical.

A revised Article 8 is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

9.21 Article 9 – Standards Committee

Deleted due to changes in the standards framework. New arrangements arising from the Localism Act 2011 have been incorporated in other sections. All subsequent articles to be renumbered.

9.22 Article 10 – Area Planning Sub-Committees and LSP (Appendix F)

Changes have taken place as follows:

- Additional text to include reference to the wards covered by each Forum;
- Inclusion of an additional requirement that issues raised at Forums to be responded to within 20 working days. Currently, updates on issues discussed at forums are reported to the following forum. As forums are only held quarterly, residents could be left waiting up to three months for a follow-on from the service area. Accordingly, officers are recommending that a 20-day response time be added so that residents receive a timely response to issues raised. Members are requested to consider this proposal and either agree to the change, or retain the current arrangements.
- Additional text has been included to reflect that Barnet discharges its duties relating to the Local Strategic Partnership via the Barnet Partnership Board. References to Local Area Agreements have been removed as legislative changes mean that these are no longer a statutory requirement.
- The deadline for submission of Issue for Residents Forums have been changed from 6.00pm the day before the meeting to 10.00am on the second working day prior to the meeting to be consistent with the deadline for other meetings. Implementation of this change will also enable officers who are required to respond to issues raised additional time to prepare briefings.

A revised Article 10 is appended. The Committee are recommended to:

- i) approve the changes contained therein;
- ii) approve the amended deadline for submission of Issues for Residents Forums; and

iii) indicate whether they agree to the imposition of a 20-day response time.

9.23 Article 11 – Joint Arrangements

No changes proposed.

9.24 Article 12 – Table of Chief Officers (Appendix G)

This Article has been updated to reflect new posts in the new organisational structure and the statutory responsibilities of those post holders.

A revised Article 12 is appended. The Committee are recommended to approve the changes contained therein. Deputising arrangements have previously been approved by General Functions Committee in January 2013.

In addition, the statutory post of Director of Public Health has been considered. For background, this table sets out their mandatory responsibilities:

MANDATORY RESPONSIBILITIES	AUTHORITY
1. Write the Annual Report on the health of the local population	The DPH has a duty to write a report, whereas the authority's duty is to publish it (section 73B(5) & (6) of the 2006 Act ¹ , inserted by section 31 of the 2012 Act). The content and structure of the report is something to be decided locally. ²
2. All of their local authority's duties to take steps to improve public health	Section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act ³
3. Any of the Secretary of State's public health protection or health improvement functions	Section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act . These include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 ⁴ of the 2012 Act. ⁵
4. Exercising their local authority's functions in planning for, and responding to, emergencies that present a risk to public health	Section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act ⁶
5. Their local authority's role in co-operating with the police, the probation service and the prison service to assess the risks posed by violent or sexual offenders	Section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act ⁷

¹ The NHS Act 2006

² DH guidance [Directors of Public Health in Local Government: i\) Roles, responsibilities and context](#) (October 2012, p.9., para. 3.2.

³ DH guidance [Directors of Public Health in Local Government: i\) Roles, responsibilities and context](#) (October 2012, p.9., para. 3.3

⁴ Section 18* gives the SoS powers to make regulations requiring local authorities to carry out public health functions and makes the local authority liable for acts or omissions of the authority when exercising such functions. ([Get in on the Act Health and Social Care Act 2012](#), LGA, June 2012, p.7

⁵ Ibid

⁶ Ibid

⁷ Ibid

MANDATORY RESPONSIBILITIES	AUTHORITY
6. Such other public health functions as the Secretary of State specifies in regulations	Section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act ⁸
7. DsPH will be responsible for their local authority's public health response as a responsible authority under the Licensing Act 2003 , such as making representations about licensing applications	Through regulations made under section 73A(1) of the 2006 Act, inserted by section 30 of the 2012 Act. ⁹ This function is given to local authorities by sections 5(3), 13(4), 69(4) and 172B(4) of the Licensing Act, as amended by Schedule 5 of the 2012 Act.
8. DsPH must have a place on their local health and wellbeing board	Section 194(2)(d) of the 2012 Act.
9. DsPH are made statutory chief officers of their local authority, and therefore holders of politically restricted posts ,	Section 2(6)(zb) of the Local Government and Housing Act 1989, inserted by Schedule 5 of the 2012 Act.
10. Undertake a Faculty of Public Health continuing professional development programme and maintain a portfolio of training that demonstrates competence with all aspects of public health accepted by the UK Public Health Register.	<u>Directors of Public Health in Local Government: i) Roles, responsibilities and context</u> (October 2012, p13., para. 5.6.
11. Where the DPH is also a medical consultant, there is a requirement for annual medical appraisal to be undertaken as an integral part of the revalidation process	<u>Directors of Public Health in Local Government: i) Roles, responsibilities and context</u> (October 2012, p13., para. 5.11.
12. LA (DsPH) "will have a duty to ensure plans are in place to protect their population including through screening and immunisation . They will provide independent scrutiny and challenge of the plans of NHS CB, PHE and providers. PHE will support DsPH to hold the NHS CB to account through the provision of data and information on performance against standards. DsPH will need to satisfy themselves that the combined plans of all these organisations will deliver effective screening and immunisation programmes to their local populations. "	National screening and immunisation programmes. <u>Letter from DH</u> , 23.08.2012, p5.

⁸ Ibid

⁹ Health and Social Care Act 2012

Numbers 1,2,4,5,7 and 12 have been included. It is suggested the others are omitted as they relate to duties undertaken either on behalf of the Secretary of State (as they have a dual reporting line), are covered elsewhere in the Constitution, or are general requirements of the role.

9.25 **Article 13 – Decision Making (Appendix H)**

This section has been updated to remove explanatory note (relating to definition of key decisions) and incorporate the text into the main body of the article.

A revised Article 13 is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

9.26 **Article 14 – Finance, Contracts, Land Disposal and Legal Matters (Appendix I)**

Removed reference to the Director of Corporate Governance and replaced with Monitoring Officer.

9.27 **Article 15 – Review and Revision of the Constitution**

No changes proposed.

9.28 **Article 16 – Suspension, Interpretation and Publication of the Constitution**

No changes proposed.

9.29 **Part 3 – Responsibility for Functions (Appendix J)**

9.29.1 Explanatory Note: A long explanatory note at the beginning of the Responsibility for Functions section has been removed with the wording incorporated into the body text with a revised heading of 'Council Functions and Executive Functions'. All subsequent sections have been renumbered.

9.29.2 Responsibilities for Council Functions – This section outlines the terms of reference of non-Executive decision-making bodies. Broadly speaking, this section remains largely unchanged. However, duplication has been noted across a number of Committees and changes have been made to rationalise the content.

9.29.3 The terms of reference of the Audit Committee have been revised to remove any unnecessary or duplicated responsibilities, for example the Constitution, Ethics and Probity Committee reviews the Constitution in terms of the Contract Procedure Rules and Financial Regulations and therefore does not require oversight by the Audit Committee.

9.29.4 Planning and Environment Committee – an explanatory note removed and incorporated into text.

9.29.5 Area Planning Sub-Committee – please note that post titles need review and updating following any decision surrounding the Development and Regulatory Services project.

- 9.29.6 General Functions Committee – details around reporting restructure are proposed to be included within the HR regulations (see section 9.43). It is too detailed to be included in terms of reference which should state the purpose of the Committee, i.e. to consider reports on redundancy. The text has been removed and replaced with “to consider reports on organisational restructure in line with the HR Regulations”.
- 9.29.7 Remuneration Committee – Terms of Reference incorporated into columns rather than an appendix within the section. They have been updated to reflect latest DCLG guidance and the decisions made by the Committee to date on how it will undertake its responsibilities.
- 9.29.8 The terms of reference are also required to include voting on Chief Officer salary packages and therefore wording has been suggested for inclusion.
- 9.29.9 Health and Well Being. The Health and Well-Being Board has been added to the list of responsible bodies as it becomes a statutory Council Committee from 1 April 2013, as provided for by the 2012 Health and Social Care Act. It is proposed that, in accordance with the Local Authority (Public Health, Health and Well-Being Board and Health Scrutiny) Regulations 2013 (SI 218), the provisions of the 1972 Local Government Act are waived as far as they apply to political proportionality and to only Members of the Council being allowed to vote on Council Committees. The Regulations also provide that the Health and Well-Being Board must be consulted on its own membership arrangements.
- 9.29.10 Responsibilities for Executive Functions: This section outlines responsibility for Executive functions including general responsibilities, the responsibilities of individual Cabinet Members, the responsibilities of Cabinet / Cabinet Committees and responsibilities of Area Environment Sub-Committees.
- 9.29.11 The Leader is considering Cabinet Members portfolios in line with the Annual General Meeting and as such at this stage only minimal changes have been proposed. A number of the portfolios referred to out of date strategies and these have been updated to reflect the changes. Portfolios have also been amended to remove reference to specific Corporate Plan priorities as these are updated and changed regularly. Partnership Boards have been referred to as a means of implementing strategy across the borough. Some portfolios did not accurately describe the responsibilities.
- 9.29.12 The explanatory note at paragraph 3.4 (Urgent Decisions) has been deleted and the text has been incorporated into the body of the Constitution.
- 9.29.13 Section 3.8 of the Constitution details plans and strategies that comprise the Policy Framework Documents which are for Council decision and other plans and strategies which are for Cabinet decision. Officers have undertaken an ‘audit’ of the number of strategies currently in existence across the Council in an attempt to codify and rationalise them and introduce a clearly understood and consistent hierarchy. The review highlighted that a number of these strategies are out of date, or are not indeed required by Statute. Officers are recommending that plans and strategies outlined in Section 3.8 of the Constitution should be replaced with six main commissioning strategies: four that reflect broad areas of activity; an overarching document covering spatial planning; and an overarching

document covering the Council's business management. The strategies would also have a limited number of sub-strategies which are of the same analytical rigour, but address more specific areas within a broad theme.

MAIN STRATEGY	SUB-STRATEGIES
Corporate Plan	People Strategy Medium Term Financial Strategy
Local Development Framework	Relevant Development Plan Documents
Children and Young People Strategy (formerly Plan)	Education Strategy Inclusion Strategy Early Intervention and Prevention Strategy
Health and Well Being Strategy	Prevention Strategy Independence Strategy
Safer Communities Strategy	Substance Misuse Strategy
Regeneration Strategy	Housing Strategy Skills Enterprise and Employment Action Plan

- 9.29.14 It is proposed that the main strategies all be the responsibility of Cabinet to approve, with the exception of the Health and Well-Being Strategy, which will be approved by the Health and Well Being Board, as this will exercise the Council's executive responsibilities in this field. In some cases they will require additional statutory approval (e.g. the Local Development Framework must be approved by Council).
- 9.29.15 Assuming they are consistent with the overall policy direction of the main strategy, sub-strategies would be signed off by the relevant Cabinet Member(s) unless they specifically requested them to be approved by the Cabinet.
- 9.29.16 Any additions to these would require approval, and this would only be given in cases of a theme that was genuinely strategic in nature and could not be addressed through existing strategies or delivery plans.
- 9.29.17 However, strategies outside this list will need to be retained where there remains a specific statutory requirement for Council or the Executive to approve them, and this has been reflected in the list at section 4.9.
- 9.29.18 Amendments have been made to the list of plans and strategies for Council and Cabinet decision as a result of the Localism Act 2011 and accompanying Neighbourhood Planning (General) Regulations 2012 which have introduced a new level of statutory planning, and other recent changes that mean that some documents such as the Children and Young People Plan and Homelessness Strategy are no longer statutory requirements. Changes are required to the constitution to ensure clear governance procedures for Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders
- 9.29.19 A number of explanatory notes have been removed and incorporated as text as they describe rules and delegations. There were additional explanatory notes describing restructures that have been deleted and are now considered as part of the HR regulations.

9.29.20 Safeguarding and Equalities: Since 2009, Cabinet has received an Annual Report on how the Council has fulfilled its Safeguarding responsibilities. In considering the latest report, at their meeting on 17 July 2012, Cabinet agreed that an annual report on safeguarding continue to be submitted to Cabinet and Council. This has therefore been added to the list of plans and strategies requiring Cabinet/Council decision. In addition, reference to both Safeguarding and the promotion of Equalities as a responsibility of all Cabinet Members has been added.

9.29.21 Powers Delegated to Officers: This section has been updated to reflect the Council's new organisational structure and update the powers of the Head of Paid Service in respect of HR matters. 1

Pension Fund Compliance Statement

9.29.22 There are no changes proposed to this section.

9.30 Part 4 – Council Procedure Rules

9.31 Section 1 – The Council (Appendix K)

9.31.1 On the 17 May 2011, Council approved the recommendations proposed by Council Meeting Review Group. The Review Group was established to consider:

- a) The structural framework of the agenda for Council meetings; and
- b) Specific proposals from Members regarding:
 - (i) removing the distinction between Motions and Policy Items
 - (ii) removing 'comments on the work of Cabinet' from the agenda; and
 - (iii) Changing speaking rules

9.31.2 The Membership of this group was Councillors Richard Cornelius, Andrew Harper, Joan Scannell, Alison Moore and Barry Rawlings.

9.31.3 Amongst the changes agreed were;

- The merging of the Motions (Part 3) and Policy Development (Part 4), creating the Administration/Opposition Items and Non Executive Items.
- Reducing the number of Council meetings by at least 1, with consideration to be given to a further reduction.
- The removal of 'Comments on the works of Cabinet' from the agenda.
- Amending the conclusion time of the meeting to 10pm, with the proviso of the Mayor extending it to 10:30pm
- That amendments should not negate the motion with '..to delete all words after Council...'

9.31.4 The options set out below seek to strengthen the planning and governance arrangements of Council meetings to ensure that these continue to operate effectively.

Number of Council Meetings

9.31.5 There are currently six Council meetings per year (January, March (Budget), April, July, September and November). The Annual Council Meeting is held in

May to appoint the ceremonial mayor and committee memberships for the year.

9.31.6 During the previous Council review conducted by Members, the proposal to delete the December meeting had been considered. This was approved and has been removed from the calendar of meetings. The Working Group considered further options for reducing meetings and propose that the current schedule of meetings is retained.

9.31.7 Deadlines

There are different deadlines associated with each aspect of Council business:

1. Questions to Council representatives on Outside Bodies (CPR 43.1)
21 clear working days before the Council meeting
2. Questions to the Leader and Cabinet (CPR 30.3)
10 working days before the Council meeting.

It is proposed to align both deadlines, which will be 10 **clear** working days before agenda publication.

9.31.8 Questions Procedure

The Working Group considered options but recommend that the existing procedure and deadlines are followed.

9.31.9 Business Items

Business Items for Debate – CPR 31.1

The current deadline falls six working days before the Council meeting (which is the Friday before the agenda is published on the following Monday.) It is proposed to bring the deadline forward from 4.00pm to 10.30 am that day to allow any issues to be addressed and clearance obtained in good time for it to be reflected on the agenda.

9.31.10 Amendments

Amendments to Items on the agenda – CPR 31.6, 32.1.1, 41.1

This deadline currently falls on the Monday (one day) before the meeting. These are then published and couriered to Members, with any other changes which get incorporated into the Supplemental Report of the Head of Governance. Additional costs are incurred for this extra courier run.

It is proposed that the additional Monday courier run before Council be scrapped. Members will be notified by e-mail with hard copies placed in Group Rooms on the day of the meeting.

Tidying Up

9.31.11 Amendments

Currently the rules governing amendments are set out in paragraphs 17, 17A, 17B, 17C, 18, 32, 41, 44, and 44.3 to 44.5. The proposal is have this set out once making it easier to follow, providing clarity and ensuring consistency.

9.31.12 Rules of Debate – New Heading

The rules governing debate at the meeting are set out in three separate sections – paragraphs 33, 36 and 40. There is repetition and duplication as the rules that apply to Part 3 Non Executive Business Items, Administration and Opposition Business Items and Part 4 are the same. Therefore it seems logical to just have it set out just once to avoid confusion.

9.31.13 Time for Debate – New Heading

The purpose for creating this new heading is the same behind ‘Rules of Debate.’ This is a rule repeated and duplicated – paragraphs 34, 37 and 42.

As highlighted in Part 3 – Responsibility for Functions, it is proposed that the ‘Explanatory notes’ are removed, with any relevant information incorporated into the rules.

9.31.14 Speeches

Proposal is to delete the section as the rules governing this will be set out in the ‘Time for Debate.’

9.31.22 Role of Mayor

This is a new heading replacing paragraph 7 and clearly setting out the Mayor’s role at Council meetings incorporating information from Articles 4 and 5 into this section.

9.31.23 Members’ Conduct

It is proposed to delete this section as rules governing Members conduct at meeting is set out in the Code of Conduct.

9.32 Section 2 – Committee & Sub-Committees (Appendix L)

9.32.1 This section has been amended as follows:

- Amended title to ‘Meetings Procedure’ instead of ‘Committees and Sub-Committees’ to avoid confusion with Council Procedure Rules which are separate and distinct.
- Amended table 1.1 to improve clarity around membership, substitutes and quorums for all committees.
- Revised Section 2 to improve clarity regarding arrangements for substitutes. Deleted unnecessary text which is reflected in revised sections.
- Revised Section 3 to improve clarity around quorum.
- Revised wording at Section 5.2 to clarify the position relating to amending minutes (i.e. factual inaccuracies only).
- Revised Section 7 to improve clarity around councillors rights to attend Committee where they are not a member

- Revised Section 8 on disorderly conduct to improve clarity.
- Removed explanatory note after Section 11 which refers to circulation of minutes as this is both unnecessary and not current custom and practice. Members receive notification of minutes publication via e-mail as soon as they are available.
- Section 14 relating to suspension of business rationalised to improve clarity.
- Deleted section on voting on appointments as this is covered already within the section

9.33 Section 3 – Panels and Consultative Bodies

This section related to the former Corporate Health and Safety JNCC and will therefore be removed. All sections subsequent to it will need to be re-numbered.

9.34 Section 4 – Public Participation Rules (Appendix M)

It is suggested that this Section be amended to read ‘Public Participation and Engagement’.

It has been tidied up to provide greater clarity, and the following changes are recommended: .

Clause 5- Restrictions and Exemptions

It is proposed to add a sentence that ‘the Chairman of the relevant Committee or Sub-Committee, after taking advice from the Head of Governance, shall decide whether any particular comment or question will be permitted’.

Clause 5.3- This has been added to clarify that Public questions are not permitted at Overview and Scrutiny Committees when they are considering call-ins or undertaking pre-decision scrutiny of executive decisions. The above committees are in many respects primarily concerned with scrutinising the work of the Executive. As these are not decision making bodies, the chairmen are limited in their ability to answer questions. However the ability for members of the public to make comments at the Audit Committee and overview and scrutiny committees is proposed to be retained. This will enable members of the public to articulate their views to these committees so that they can take these into account in considering and debating items of executive business.

Clause 6. Petitions

There is currently no clarity for Members, officers and the public regarding how the council will deal with petitions and additional paragraphs are proposed to address this.

Paragraphs 6.6. to 6.8 have been added to set out more specific procedures for how petitions will be responded to, either through Residents Forums, or the relevant Cabinet Member/Director. or the relevant Area Environment Sub-Committee.

Paragraph 6.9 sets out how petitions of 2000 or more signatures (but under 7000) will be dealt with at Business Management overview and Scrutiny Committee. Paragraph 6.10 sets out the procedure for how petitions of over 7000 signatures will be presented and dealt with at Council.

9.35 Access to Information Procedure Rules (Appendix N)

9.35.1 This section has been updated to reflect Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which came into force on 10 September 2012. The main impact of these regulations is replace the requirement to have a Forward Plan (of key Executive decisions) a requirement to publish **28 clear day advance notice** prior to taking any **key decision** or a decision subject to exempt information, and give 28 clear days notice of the intention to hold a private meeting (or part of a meeting) of a Cabinet committee i.e. Cabinet/Cabinet Resources Committee. The specific changes are:

- Deleted from Section 3 text which relate to public disturbance as these are referred to in other sections of the Constitution.
- Wording in Section 5 has been deleted to improve clarity regarding public access to late items.
- Rationalised the wording at Section 6 to improve clarity.
- Revised Section 8.1 as items listed as Background Information are not routinely published on the website, but are available on request (either from Governance or the report author) should a member of the press or public wish to access them.
- Section 10.4 – text at 8.7C deleted due to the revocation of legislation relating to Standards Committees.
- Deleted ‘Definitions’ and ‘Explanatory Notes’ sections after 10.4 as these sections as these add confusion rather than clarity regarding the application of exemption categories to decisions. Additionally, these are rarely referred to or applied in interpreting the exemption categories to decisions.
- Deleted Section 10.5 due to the abolition of the standards regime.
- Section 13 amended to delete reference to the ‘Forward Plan’ and replace with reference to a ‘28 day advanced notice’ in accordance with regulations which came into force in September 2012.
- Section 22 of the Local Government Act 2000 previously provided that ‘...it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.’ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England)

Regulations 2012 now provides that '... a meeting of a decision-making body must be held in public' which supersedes the provisions about private meetings of the Executive. Sections 19, 20 and 21 have been deleted and replaced with a new Section 19 which details new provisions around private Executive meetings. All subsequent sections have been renumbered.

- Revised (new) Section 22 to provide additional detail on timescales for providing documents (as defined in the new regulations)
- Deleted explanatory note at the end of the section and incorporated text relating to inspection of finance documentation as a (new) Section 24.5.

9.35.2 A model constitution that incorporates the new requirements of this Act is still in the process of development by the Association of Council Secretaries and Solicitors (ACSeS). It is likely therefore that further revisions to the Constitution need to be brought forward in due course.

9.36 Budget and Policy Framework Procedure Rules (Appendix O)

It was agreed by Members that this should be included within the financial regulations in order to have them all in one space.

9.37 Executive Procedure Rules (Appendix P)

No changes are proposed to this section. The document has been revised to incorporate some formatting changes. The body text remains the same.

9.38 Overview and Scrutiny Procedure Rules (Appendix Q)

9.38.1 The Leader has indicated his wish to introduce two new Overview and Scrutiny Committees from the start of the 13/14 Municipal Year, namely a Contracts OSC, and an Education OSC. Suggested terms of reference are included at the end of this Appendix.

9.38.2 As it is likely, due to Full Council decision in January 2013, that the Council will go to a Committee system style of Governance from the 2014/15 Municipal Year the Overview and Scrutiny Procedure Rules are thought to be generally fit for purpose for the current year and will be reconsidered when the Constitution is further reviewed in 13/14 to prepare for a return to the Committee system.

9.38.3 At this stage a number of minor changes- principally as a result of the Health and Social Care Act 2012- are proposed which have been tracked. The reason for these is as follows:

- Reference to the new organisation, Barnet Clinical Commissioning Group which is subject to scrutiny, has been amended to be referred to in the Health OSC Terms of Reference
- Removal of "Barnet PCT" from the Health OSC Terms of Reference, as this now ceases to exist

- Capturing the replacement of “Barnet LINK” with “HealthWatch” within the Terms of Reference of both the Safeguarding and Health OSC.
- The decision of Council on 24th January 2012 to include the Barnet Group LTD within the Terms of Reference for the Budget and Performance OSC

9.39 Financial Regulations (Appendix R)

9.39.1 Change to the Structure of the Financial Regulations

The current Financial Regulations are divided into three sections:

- General Introduction
- Financial Management
- Financial Administration

It is proposed that these be combined into one section with continuous numbering through the whole document for ease of referencing.

Where sections are proposed to be deleted, these have been marked as track changes with a note to highlight the reason for the proposed change.

9.39.2 Additions/Deletions

It is proposed that the Budget and Policy Framework Procedure Rules are added to the financial regulations so that all financial aspects are held in one location.

It is proposed that a new section is created within the Constitution titled the Human Resources (HR) Regulations.

9.39.3 General Introduction

A number of paragraphs are proposed to be deleted as they are either duplicated in other parts of the Constitution, or have been moved into different sections.

9.39.4 References to Key Roles

Reference to the key roles has changed to reflect the changes to the Council structure. The proposed new Financial Regulations now refer to the following roles:

- Section 151 Officer
- Chief Officers
- Chief Monitoring Officer
- Chief Executive
- AD Operational Assurance
- Head of Audit and Anti Fraud

9.39.5 Section 2: Status of Financial Regulations

Section 2 of the proposed new Financial Regulations is broadly similar to section 2 of the current Financial Regulations. Some paragraphs have been removed where they refer to specific detail that is covered elsewhere in the Financial Regulations. Some paragraphs have been added to this section that were previously in other sections of the Financial Regulations in order to have all the relevant paragraphs on the status of the Financial Regulations in one place.

A Section 2.2 has been added to clarify the status of the Financial Regulations with schools.

9.39.6 Section 3: Responsibilities

Section 3 of the general introduction to the current Financial Regulations sets out the responsibilities of various committees of the Council. This has been removed from the proposed new Financial Regulations as it is covered in Part 3 of the Constitution: Responsibility for Functions. All terms of references will be revised and cross checked.

Section 3 of the general introduction to the current Financial Regulations also sets out the responsibilities of various officers of the Council. These are also removed as these responsibilities are covered in the specific areas of the Financial Regulations rather than grouped together here.

A matrix of responsibilities has also been drafted to summarise the responsibilities of key officers. This pulls out the specific responsibilities of officers in the proposed new Financial Regulations and sets them out by officer in a matrix. This is intended to be an appendix to the main Financial Regulations. This matrix will form the basis of the schemes of delegation that will be in place for each Delivery Unit and the Commissioning and Assurance Groups. These will be published alongside the Constitution for transparency purposes. See separate Matrix.

9.39.7 Part 1 Financial Management

9.39.8 Section 4.3: Annual Budget Setting

The reference to the deadline in Part 3, Section 1 of the Constitution has been removed from paragraph 4.3.11 as it is no longer included in that part of the Constitution. A deadline will be added into the Financial Regulations.

9.39.9 Section 4.4: Budget Management and Monitoring

The Financial Management section of the current Financial Regulations has two sections as follows:

- (4) Budget Management and Monitoring
- (5) Further Responsibilities of Corporate Directors and Heads of Service

As these two sections cover broadly the same thing, they have been combined into one section in the proposed new Financial Regulations: (4.4) Budget Management and Monitoring.

A section on control of establishment lists has been removed from this section as it will now be covered in the HR Regulations.

Scheme of virement is an appendix in the current Financial Regulations – this has been included in the main body of the proposed new Financial Regulations at section 4.4.3. The text has been slightly amended and it has been put into a table to improve clarity of the level of authorisation needed.

Paragraph 4.4.6 has been expanded to include reference to the autonomy of delivery units.

Paragraph 4.4.6.6 has been added to outline treatment of year end over or under spends of autonomous delivery units.

Paragraph 4.4.10 on approval of allocations of contingency has been amended to bring the levels of approval into line with the approval level for virements.

9.39.10 Section 5.1: Accounting

A reference to “SAP” in paragraph 5.1.4 has been removed and changed to “Council’s Accounting System” to cover the possibility of the accounting system being changed in the future.

9.39.11 Part 2 – Financial Administration

9.39.12 Section 3.2 Internal Audit

Added paragraph deleted from responsibilities section to highlight the statutory reporting line of the Chief Internal Auditor.

9.39.13 Section 4: Corporate Anti Fraud Team

Much of this section has been updated to include and reflect new and current job titles and responsibilities as well as updated references to the relevant CAFT policies and procedures. In addition, responsibilities have been added for the Regulation of Investigatory Powers Act 2000 (RIPA).

9.39.14 Section 5.4: Risk Management

The section on Risk Management has been removed as it is covered by the Risk Management Strategy. It has been replaced by the requirement for Chief Officers to ensure that they and their staff uphold the requirements of the Risk Management Strategy.

9.39.15 Section 6: Banking Arrangements

A requirement for Chief Officers to ensure their staff adhere to the London Borough of Barnet Purchasing Card (P-Card) Guide and Terms and Conditions has been added at paragraph 5.5.5.

9.39.16 Section 7: Assets

The current Financial Regulations have a section on “Security of Assets”. Some of this section has been removed as it is not relevant to the Financial Regulations and is covered by other documents such as the Risk Management Strategy, Business Continuity Plans and data Protection Policies.

The detail in the current Financial Regulations on stocks and stores have also been removed as the level of detail is more than deemed necessary for the Financial Regulations. It has been replaced with the requirement for Chief Officers to implementing a system for the maintenance of stocks and stores including regular stock checks and write offs when required.

9.39.17 Section 9: Income

Much of the income section in the current Financial Regulations has been removed in the proposed new Financial Regulations as it is covered in the Debt Management Strategy. It is replaced with a requirement for the Debt Management Strategy to be adopted across the Council.

9.39.18 Section 12: Ordering of Supplies, Works and Services

The section on Supplier Selection and quite / tender evaluation has been removed in the proposed new Financial Regulations as this is covered in the Contract Procedure Rules.

An additional line has been added to paragraph 5.11.2 to state 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.

9.39.19 Section 13: Salaries, Pensions and Allowances

Much of the Salaries, Pensions and Allowances section has been removed in the proposed new Financial Regulations as this will be covered by the HR Regulations, or are already covered in the budget monitoring section of the Financial Regulations.

9.40 Contract Procedure Rules (Appendix S) and Code of Procurement Practice (Appendix S2)

Introduction & Background

9.40.1 There has been a major overhaul to the current Contract Procedure Rules, owing to the fact that they were difficult to read, did not have sufficient flexibility for 'Part B' services, and lacked clarity on what was an actual rule compared to what the process was for compliance with the rule. As such there are two documents that now support procurement activity that should lead officers to procure compliantly; these are the (i) Contract Procedure Rules (the rules) and the (ii) Procurement Code of Practice (CoP) (the processes).

Approach

9.40.2 The approach taken to this review was to consider best practice in public sector procurement and started by defining a high level process map of the Target Best Practice Operating Model.

9.40.3 From this the review identified and differentiated between primary decisions, support decisions, decision making boundaries, and processes at different levels.

9.40.4 The new CPRs are centred upon two key decision points:

- a) The decision to procure goods or services (following needs and market analysis, and procurement strategy development)
- b) The decision to appoint and enter into contract with a vendor (or group of vendors) following a compliant procurement process

9.40.5 Within the current CPRs these are combined, and, when considered with regard to the complex rules surrounding contract variations, extensions and waivers, makes determination of the correct course of action difficult to navigate.

9.40.6 Moreover, the current CPRs treat all contracts with Third Parties the same and do not allow for the fact that there are many services and payments to Third Parties which are made by the Council which are non-discretionary, at prices set outside of the control of Council Officers. This has led to the proposed creation of an 'Exemption List' within the CPRs which allows an alternative

method of payment, under strict control and determination by Central Procurement. This exemptions list will also be published to aid transparency.

9.40.7 The new CPRs are designed to recognise the fundamental principles and decisions upon which Best Procurement practices are based, and strip out many of the process related 'rules' currently contained with the existing document.

9.40.8 This has enabled a number of decision making threshold tables to be combined into a single table for simplicity. The thresholds have also been simplified, and roles and responsibilities with regard to procurement decision making more clearly defined.

9.40.9 The new CoP document defines the Target Operating Model which Corporate Procurement believes represents current Best Practice, a 'How to...' document for Council Officers who apply the CPRs everyday.

Going through the Contract Procedure Rules attached at appendix (S) the following changes are flagged:

INTRODUCTION

9.40.10 The main change in this section is para 1.3, where there is an additional statement regarding probity and transparency

APPLICATION

9.40.11 Additional statements have been made regarding compliance and associated legislation. Who maintains the CPRs has been updated. References to the Procurement Code of Practice have been simplified. An additional statement regarding conflicts of interest, which reference the Staff Code of Conduct, has been inserted.

SCOPE

9.40.12 A duplicate reference to the Code of Practice has been removed. Changes to statements to simplify and improve meaning have been made. The original statements include an exception to the CPRs – this has been treated separately and explicitly elsewhere.
There are no key changes in scope from the original CPRs.
For the first time the CPRs differentiate between Procurement and Non-Procurement activity, and introduce the idea of an Exemptions List. How this list is treated to assure proper control is defined. This is a major change to the CPRs.

REGULATION & LEGISLATION

9.40.13 This a short additional section to clarify the relationship between Members and Central Procurement with regard to changes in legislation, the CPRs and the Code of Practice.

ROLES AND RESPONSIBILITIES

9.40.14 This section has been moved forward within the CPRs, treated separately and responsibilities clarified. In a complex organisation where procurement activity is substantial and devolved, the accountabilities for devolved functions need to be defined carefully, which is the purpose of this section. This section introduces the concept of the Procurement Forward Plan and its relationship with the annual Budget. It also places a requirement upon the Delivery Unit to use the prescribed E-portal, to improve document traceability, accountability, and compliance. In addition, this section changes the Central Master Contracts Register reporting requirement from £25k to £10k.

CONTRACT VALUE CALCULATION

9.40.15 This section has been simplified and clarified to aid understanding. There are no key changes.

AUTHORISATION

9.40.16 This section has been spilt out from the original CPRs, which collected a number of key principles together. Authorisation to Procure is the first key decision which has to be taken within the Procurement Operating Model, and requires a short section to deal with it. Process related statements in the current CPRs have been moved out of this section and are covered in the Procurement Code of Conduct, which has been drawn up to reflect best practice. The key change here is that the primary route to authorisation is via the Procurement Forward Plan. Ad hoc procurements are then treated through the DPR/CRC reporting mechanism, tabulated in Appendix 1. Another major change is that all tables defining decision making levels in the current CPRs have been simplified and consolidated into a single table (Appendix 1). The idea is that this should make interpretation of the rules easier to follow, thereby improving compliance and control.

PROCUREMENT METHOD

9.40.17 This is a new section which deals with key aspects of the decision making process and underlying procurement process. Detailed descriptions of procurement processes have been removed and are covered in the Procurement Code of Practice. The use of the E-procurement portal is clarified.

SINGLE TENDER ACTION

9.40.18 This new section places a requirement upon the Delivery Unit to seek special authorisation before a single source procurement is allowed.

INFORMATION GOVERNANCE

9.40.19 This is a new and significant addition to the CPRs, which sets out the Councils requirements regarding Information Governance. The scope of these requirements extends from Procurement through to Contract management.

ACCEPTANCE

9.40.20 This is a new section and represents the second key decision point where Procurement control is effected. It represents the final stage of a procurement where, depending upon the size of the award, approval is granted for the Council to contract with a recommended vendor. It seeks to confirm that the need still exists, that the contract is within budget, that the proposed vendor is capable of delivery, and that the process has delivered best value.
The decision threshold levels have been summarised and consolidated into Appendix 1.

CONTRACT SIGNING AND SEALING

9.40.21 Minor revisions have been made to improve clarity.
In addition, the handling of contracts which result from Court or Tribunal directed placements is handled.

CONTRACT MANAGEMENT

9.40.22 This is a new section which defines the principle requirements of Contract Management, during Service delivery. Process related detail has been described within the Procurement Code of Practice.

EXTENSIONS AND VARIATIONS

9.40.23 This topic has been given a new section. Decision making levels have been consolidated into Appendix 1. The principles have not changed, with the exception of Placement Contracts for Individuals in Social care or Special Educational Need. The purpose here is to simplify the process and reduce unnecessary bureaucracy.

WAIVERS

9.40.24 This is a new section which combines the original sections for Waivers and Urgencies. There are no major changes here. The definition of an 'emergency' has been taken from the Oxford English Dictionary.

DEFINITIONS

9.40.25 This section has been revised to reflect the new terms used within the proposed CPRs.

APPENDIX 1 - TABLE A – AUTHORISATION AND ACCEPTANCE THRESHOLDS

9.40.26 This Table consolidates all decision level thresholds into one place. There are no changes to the current CPR thresholds.

9.41 Management of Real Estate Property and Land (Appendix T)

9.41.1 A General Consent paragraph removed and replaced with general compliance required with the relevant legislative and statutory guidelines.

Approach

9.42.1 The approach taken to rewriting these rules is similar to that adopted for the CPRs, with the exception that in this case the Regulatory Framework is highly structured, complex, and should only be applied by Members of the Royal Institution of Chartered Surveyors.

9.42.2 The Rules have been placed within the broader context of the Built Environment, and recognise the need for effective management and control over Council Assets throughout their life cycle, from acquisition through alterations to disposal.

9.42.3 As with the CPRs, these Rules have been developed around two key decision points and the boundary thresholds required to apply them. The first decision point is Authorisation to commence an acquisition, alteration or disposal process. The second decision point is to accept the outcome of the process so that Officers can formalise any contractual relationship on behalf of the Council.

9.42.4 The overarching document which drives the Estates Strategy and the resultant detailed Plan is the Corporate Plan, which sets out how the Council intends to develop its Asset Portfolio.

9.42.5 A distinction is made between the actual strategy in use for Real Estate, Property and Land, namely the Estates Strategy, and the asset management plan which sits underneath this.

9.42.6 Under the new organisation structure property services is bundled within the New Support/Customer Services Organisation (NSCSO) and therefore the relevant Director responsible for Real Estate, Property and Land will be the Chief Operating Officer, whose Chief Officer post is Chief Finance Officer.

9.42.7 The requirement to achieve Best Consideration rather than Best Value under section 123 of the Local Government Act 1972 has been added in a number of paragraphs to provide legislative background.

9.42.8 The section refers to the relevant body, being decision making body, but does not stipulate what that body is. For clarity the relevant body is Cabinet Resources Committee and this has been included in both Tables A and B.

- 9.42.9 Within the new text much reference is made to the 'Red Book', the Framework of Legislation, Regulations, Measures, Methods and Best Practice processes published by the Royal Institution of Chartered Surveyors.
- 9.42.10 It is proposed that clarification is added to the Real Estate, Property and Land aspects of the Constitution as described above, including clarifying the position with respect to Academy Schools. When a school takes academy status they are granted a 125 year lease of the land and buildings at a notional rent. While the council retain the freehold, the school is free to manage, maintain, and licence as it sees fit. It cannot however dispose of its interest. The Academies Act has a number of qualifications and conditions, but broadly speaking apart from disposal, or granting an interest in the land that will require our consent, they are free to use and manage as they choose.
- 9.42.11 Decision making authorisation has been summarised in Tables A and B where threshold levels have been set for different asset management processes which are based upon proposed CPR levels. However, a single asset disposal threshold is recommended because of the sensitivity that such actions precipitate.
- 9.42.12 Table B addresses threshold levels for the Acceptance decision, and simply discriminates between two states: that the original Authorisation criteria have been met, and; that the original Authorisation criteria have not been met. In the case of the latter, the threshold for the Acceptance decision moves up one level.

9.43 Officers Employment Procedure Rules (Appendix U)

It is proposed that this section is now titled Human Resources Regulations.

- 9.43.1 From the general review of the Constitution it is apparent that rules for Human Resources are scattered throughout the document. This rather unhelpfully does not provide officers with clarity on the right course of action when making decisions. It is therefore proposed to extract any rules regarding human resources in one location for reference and cross-referred to the officer scheme of delegation.

Extract from General Functions Committee:

- 9.43.2 Within the terms of reference for the General Functions Committee was an explanatory note that was considered a rule, the Working Group suggested that this be included within the HR regulations and to revise the rule to define what is considered to have major implications and therefore required to be considered by General Functions Committee.
- 9.43.3 The HR regulations have adopted the previous set of Officer Employment Procedure Rules. These have been clarified for decision makers in terms of how they should discharge this responsibility.
- 9.43.4 Pension information has been extracted from the Finance Regulations and added into the HR regulations so that they are included with relevant information pertaining to staff.

9.43.5 Aspects of the regulations have been deleted whereby systems and processes have evolved. These aspects no longer considered necessary have been included in the Appendix for completeness and review.

9.43.6 It is recommended that the changes are adopted and the new section be created within the Constitution.

9.44 Part 5 – Codes and Protocols

9.45 Code of Conduct for Members (Appendix V)

Members' Code of Conduct

9.45.1 Amendments have been made to the Code of Conduct for Members to reflect new categories of interest- disclosable pecuniary interests and non-pecuniary interests- in line with the requirements of the Localism Act 2011. Some amendments have also been to the order of the paragraphs for clarity and so that the Code flows better. A section on Gifts and Hospitality has also been included as this is not contained in the current Code. The sections below detail the proposed changes to each section.

The Title

9.45.2 The Committee are recommended to approve a change of title from The Barnet Code of Conduct to "Barnet Council - Code of Conduct for Members". This is to give clarity that it is the Code for Members.

Section 1 – Introduction and Interpretation

9.45.3 Changes have taken place as follows:

9.45.4 Additional paragraphs (5) and (6) have been added to this section. These were previously paragraphs 3(1) and (2) in the current Code under General Obligations. It has been moved to this section as it sits better in this section.

9.45.5 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Scope

9.45.6 Changes have taken place as follows:

- a) References to various sub-paragraphs of the Code have been all deleted and this has been replaced with a single sentence stating "You must comply with this Code whenever you are acting in your capacity as a Member of the council".

9.45.7 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes.

General Obligations

9.45.8 Changes have taken place as follows:

- a) Paragraphs 3(1) and (2) have been moved to Section 1. The remaining paragraphs have been renumbered.
- b) Paragraphs 6(a and b) – delete "your authority" and replace with "the Council's".

- c) A new paragraph (7) has been created giving advice to members about considerations when taking decisions:

7. When reaching decisions you should –

(a) *not act or cause the Council to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking to the Court, or for the advantage of any particular person or interest rather than in the public interest; and*

(b) *take into account all material information of which you are aware and then take the decision on its merits and in the public interest.*

9.45.9 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Interests

9.45.10 Changes have taken place as follows:

- a) The whole section has been replaced to reflect the change in disclosure of interests to disclosable pecuniary interests in line with the requirements of the Localism Act 2011.
- b) A new sub section has been created for Gifts and Hospitality as this is not contained in the current Code.

9.45.11 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Registration of Members' Interests

9.45.12 Changes have taken place as follows:

- a) Paragraph 12(1), first line, delete "13" and replace with "14" in order to correspond with the relevant section.
- b) Paragraphs 12 (1)(b) - delete "your authority's" and replace with "the Council's".
- c) Paragraphs 12 (2)- delete "your authority's" and replace with "the Council's"; also delete "13" and replace with "14" in order to correspond with the relevant section.

9.45.13 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Sensitive Information

9.45.14 Changes have taken place as follows:

- a) Paragraphs 13(1), first line, after personal add "or declarable pecuniary interests".

- b) Paragraphs 13(1) and (2) - delete “your authority’s” and replace with “the Council’s”.

9.45.15 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Advisory Note

9.45.16 Remove this from the Code of Conduct. The Advisory Note was a recommendation that was made to Council following a Standards Sub-committee hearing in 2009. The Sub-committee did not direct that this has to be included in the Members’ Code of Conduct.

9.45.17 The Committee are recommended to approve the changes contained therein.

Appendix 1

9.45.18 This is a new addition to the Code which gives details of the definition of Disclosable Pecuniary Interests.

9.45.19 The revised section of the Code is set out in the attached document pack. The Committee are recommended to approve the changes contained therein.

Further Recommendation:

9.45.20 Member Development session for 2013/14 on Members Code of Conduct for impact of changes in the legislation for Pecuniary interests.

9.46 Members Planning Code of Good Practice (Appendix W)

9.46.1 This section has been reviewed by Governance for factual changes, including being further reviewed to reflect the new arrangements for declaration of interests as set out in the Localism Act 2011 and cross-refer to the updated Member Code of Conduct. The implications of the Localism Act 2011, for example with regard to relaxing ‘predetermination’ rules, are still not entirely clear and the Planning Service have been seeking legal advice. It is suggested that this be further reviewed during 2013/14 in the light of experience in Barnet and elsewhere including any case law that may emerge.

9.47 Members Licensing Code of Good Practice (Appendix X)

9.47.1 There have been no significant suggested changes to this document. Much of the legislative background has become out of date and significantly added to over the years and as such has been added to within the Introduction.

9.47.2 The Localism Act 2011, requiring disclosure of pecuniary or non pecuniary interests, has been incorporated within Section 3 and throughout the document. Specifically within section 3, reference to the Members Code of

Conduct and to sections of that code have been removed so as they do not become out of date through revisions to that Code.

9.47.3 Section 5 references specific Acts of law: however it is suggested that section 1 is referred to for the remit of the Licensing Committee.

9.47.4 Throughout the document references to the Democratic Services Manager have been replaced with the Head of Governance.

9.48 Officers' Code of Conduct (Appendix Y)

9.48.1 On 29 January 2013, the General Functions Committee considered a revised Officer Code of Conduct. The Code has been revised to:

- i) reflect the increased complexity of the workplace post One Barnet implementation;
- ii) clarify standards of behaviour when working with colleagues and stakeholders; and
- iii) revise the process for recording gifts, hospitality and sponsorship.

9.48.2 A summary of the amendments and the rationale for these are set out below:

1. Major changes to the way the council is organised and the move to a commissioning organisation will significantly increase the complexity of the working environment. The Code of Conduct has been updated to reflect expectations around tendering, conflicts of interest, financial standards and soliciting/being solicited for employment.
2. New technologies have opened up new channels of formal and informal communication (such as blogs, websites, twitter and similar electronic communication channels) between the council, residents and stakeholders. These were not previously referred to in the Code. The Code has been revised to outline expectations of staff when not dealing with
3. The Code has been revised to be explicit about close personal relationships between staff and between staff and workers in partner and stakeholder organisations.
4. Changes have been made regarding soliciting or being solicited for employment. In the revised Code, employees are explicitly prohibited from engaging in discussions about future employment with any partner organisation.
5. In relation to restraint of trade for Council employees, changes have been made. Instead of seeking to restrict employees from moving to competitor organisations for a period of six months, the council now reserves the right to take action where an individual's activities on leaving are detrimental to its interests.
6. The revised Code also addresses the issue of standards and conduct of Barnet employees who are also residents and wish to express their views about local issues. The Code has been amended to make clear that staff in this situation must make it clear through their communication and dress that views being expressed are personal and do not reflect those of the Council.

7. The revised Code also introduces a new process for declaring all offers of gifts, hospitality and sponsorship that is overseen by the Monitoring Officer and managed by the Governance Service. A central online register will be introduced for gifts accepted or offered that are over £25 (over a period of one year) and local registers will continue to be maintained for gifts that fall below this amount. No cash, cheques, money orders or gift vouchers can be accepted. The register will be published and subject to inspection.

9.48.3 The General Functions Committee endorsed the revised Officer Code of Conduct for onward referral to the Constitution, Ethics and Probity Committee.

9.48.4 The Constitution, Ethics and Probity Committee Working Group are requested to:

1. Note the revised Officer Code of Conduct;
2. Consider the changes and make any appropriate comments; and
3. Endorse the revised Code being incorporated into the updated Constitution.

9.49 Protocols for Member-Officer Relations (Appendix Z)

9.49.1 The front page has been updated for the Interim Chief Executive and departure of the previous Chief Executive.

9.49.2 Section 3 has been updated to note the existence of two political assistants. In accordance with the Local Government and Housing Act, to qualify, the membership of a Group must comprise at least one-tenth of the membership of the council. In Barnet's case this is a minimum of seven members. As such one per group does not apply as currently stated.

9.49.3 The document has been updated throughout to reflect the positions of Assistant Directors and Lead Commissioners as set out in the new organisational structure.

9.49.4 The Monitoring Officer position will stand alone as a Chief Officer role rather than the title of the role per the organisational structure.

9.49.5 Section 5 has been updated for some changes in statutory posts.

9.49.6 Section includes reference to the Appeals Committee, that no longer exists, staffing matters (including discipline and dismissal) are dealt with by the relevant managers. In addition, grievances are not dealt with in JNCC's and Members do not currently take part in these meetings. It is suggested these paragraphs are removed.

9.49.7 Section 9.9 has been removed, describing a court decision of Porter v Magill, as it does not add any value to the section.

9.49.8 Section 13 – Heading should refer to Chairmen as the term used elsewhere.

9.49.9 Section 14 has been updated to include changes to the standards regime arising from the Localism Act 2011. This reflects the changes included in the Member Code of Conduct.

- 9.49.10 Section 15 has been updated to reflect the appropriate procedures for whistleblowing which would not warrant disclosure to Directors or the Chief Executive but to the independent appointed officer “Whistleblowing officer”. Procedures were out of step with our Whistleblowing policy and suggested changes now bring this into line.
- 9.49.11 Appendix A is suggested to be removed as adds no value to the section. It is the detail of the Porter v Magill case.

9.50 Code of Corporate Governance (Appendix AA)

- 9.50.1 A Code of Corporate Governance is recommended by the guidance designated as ‘proper practice’ by the Department for Communities and Local Government. This being the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) framework entitled “Delivering Good Governance in Local Government”.
- 9.50.2 On 7 April 2009, Council approved the Barnet Code of Corporate Governance. The current Code is set out in Part 5 of the Constitution. The Audit Committee agreed to review the Code of Corporate Governance biennially. The Code was reviewed by the Audit Committee in June 2011 but was not subsequently submitted to Council for approval.
- 9.50.3 A review of the current Code of Corporate Governance has resulted in a number of changes. This includes some of the changes agreed by the Audit Committee in June 2011. A summary and explanation of the changes to the revised Code of Corporate Governance are set out below:
- 9.50.4 There are new paragraphs inserted to reflect best practice in governance, which includes the need to review the Council’s governance arrangements and publish an Annual Governance Statement (page one of revised Code). The Annual Governance Statement is the formal statement that recognises records and publishes the authority’s governance arrangements as defined in the CIPFA / SOLACE framework. It is a statement which reflects good governance across the Council.
- 9.50.5 The six core principles are set out and numbered clearly as it appears in the CIPFA/SOLACE guidance and also included at the top of each table.
- 9.50.6 Changes have been made to more accurately reflect the current terminology used within the Council, for example, the performance review replaces the word appraisal.
- 9.50.7 The changes below in italics have been made to more accurately reflect the new executive arrangements.

The Constitution defines roles and responsibilities of the <i>Leader, Deputy Leader, Cabinet</i> and individual Executive members;
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- 9.50.8 The change below in italics has been made to reflect that there is an annual review at the end of the year.

The Code of Conduct for Members provides effective arrangements for ensuring that Members are not influenced by prejudice, bias or conflicts of interests, which are implemented through training and the existence of processes to obtain details of personal interests:

the Monitoring Officer compiles the Register of Interests and conducts *an annual review*;

9.50.9 The change below in italics reflects that there are also Independent Members on the Audit Committee. It also includes the role of reviewing the Code of Conduct and power to challenge where assurance levels have not improved.

An Audit Committee, independent of Executive and Scrutiny functions, with clear terms of reference, cross-party membership *and Independent Members review the Code of Corporate Governance.*

Members of the Audit Committee receive the necessary training in this role and can exercise their power to challenge officers responsible for audit areas where assurance levels have not improved to their satisfaction.

9.50.10 The additional information below provides details of the Petition Scheme.

There is a Petition Scheme for persons who live, work or study in the authority's area to submit a Petition with their concerns about a Council service or decision.

9.50.11 The above changes have been made to the London Borough of Barnet Code of Corporate Governance in order to make it easier to read and also to identify the Council's obligations.

9.51 Members Allowances Scheme

This section of the Constitution has been excluded from the review but will need to be considered in line with any changes in form of governance.

9.52 Schemes of Officer Delegation (Appendix AB)

9.52.1 In addition, the schemes of Officer delegation that flow from the Constitution need to be considered as part of this review once the Constitution is a coherent document. A draft Scheme of Delegation which sets out both generic delegations to Chief Officers at each level of seniority and delegations specific to particular posts are attached at Appendix 'AB' to follow.

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	MC and JH
Cleared by Legal (Officer's initials)	JF

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APPENDIX A

Article 3 – Citizens and the Council

3.01 Citizens' rights

Councils have a duty to treat citizens equally under the Constitution. Their rights to information and to participate are explained in more detail in the Council Procedure Rules in Part 3 and Access to Information Rules in Part 4 of this Constitution:

- (a)
 - (i) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution.
 - (ii) **Petition scheme.** Citizens who live, work or study in the authority's area and are concerned about a Council service or a decision that is about to be made, may send the Council a petition which shall be considered and responded to in accordance with the Petition Scheme as outlined in the Public Participation and Engagement Rules set out in this Constitution.

- (b) **Information.** Citizens have the right to:
 - (i) Attend meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) Attend meetings of the Executive when key decisions are being considered;
 - (iii) Find out from the Advanced Notice of Proposed Decisions Under Executive Functions what key decisions and decisions subject to exempt information will be taken by the Executive and when;
 - (iv) See reports and background papers, and any records of decisions made by the Council and the executive; and
 - (v) Inspect the Council's accounts and make their views known to the external auditor.

- (c) **Treatment.** Citizens have the right to:
 - (i) Be treated equally with understanding and respect;
 - (ii) Have equal opportunity with other citizens; and
 - (iii) Receive quality services provided to Best Value principles.

- (d) **Public Engagement.** Citizens have the right to ask questions and make comments at committee meetings, make representations at Residents' Forums and contribute to investigations initiated by Overview and Scrutiny Committees (such as Panels or Task and Finish Groups).

- (e) **Complaints.** Citizens have the right to complain to:
 - (i) The Council itself under its complaints scheme;
 - (ii) The Local Government Ombudsman (after using the Council's own complaints scheme);

- (iii) The Monitoring Officer about a breach of the Members Code of Conduct.

Appendix B

Article 4 – The Full Council

4.01 Meanings

(a) **Policy Framework.**

The policy framework means the following plans and strategies required by law to be adopted by the council:

- Safer Communities Strategy
- Sustainable Community Strategy
- Development Plan Documents comprising the Local Plan
- Adoption of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders
- Statement of Licensing Policy (under the Licensing Act 2003)
- Statement of Gambling Licensing Policy (under the Gambling Act 2005)

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them subject to the right of a political group within the meaning given by the Local Government and Housing Act 1989 and regulations made under

that Act to make nominations for those appointments at the meeting that makes appointments before the appointments are made;

- (e) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (f) adopting an allowances scheme under Article 2.05;
- (g) changing the name of the area, conferring the freedom of the borough or granting Freedom of Entry to the Borough, or the establishment of a new civic link (which must be considered at a specially convened meeting of the Council);
- (h) confirming the appointment of the head of paid service;
- (i) making, amending, revoking, re-enacting or adopting bylaws (on the recommendation of the relevant Council Committee if a Council function, or Cabinet, Cabinet Member, Cabinet Committee or Area Sub-Committee if an Executive function) and promoting or opposing the making of local legislation or personal Bills;
- (j) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive;
- (k) all other matters which, by law, must be reserved to Council, including:
 - Ombudsman reports (non-executive functions) where there has been a finding of maladministration;
 - statutory reports of the Monitoring Officer, Chief Finance Officer and Head of Paid Service, and external auditors' public interest reports;
- (l) discharging the powers under section 70 of the Deregulation and Contracting Out Act 1994 to contract out functions that are the responsibility of the Council.
- (m) determining affordability under the prudential borrowing provisions in the Local Government Act 2003.
- (n) in accordance with the Petition Scheme debate on any petitions containing the requisite number of signatures.

4.03 Council Meetings

There are three types of Council meeting:

- (a) the annual meeting
- (b) ordinary meetings;
- (c) extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.04 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

APPENDIX C

Article 6 - Overview and Scrutiny Committees

6.01 Terms of reference

The Council will appoint the Overview and Scrutiny committees as detailed in the Overview and Scrutiny Procedure Rules.

Scrutiny Committees Scope

6.02 General role

- (a) The Council will allocate responsibility to a single Overview & Scrutiny body to determine call-ins of decisions made but not yet implemented by the executive and/or area committees.
- (b) The Overview and Scrutiny committees are also required to perform the overview and scrutiny role, as far as matters with their remit is concerned, in relation to the following:
 - i. The Council's leadership role in relation to diversity and inclusiveness and;
 - ii. The fulfilment of the Council's duties as an employer, including recruitment and retention, personnel, and payroll services, staff development, equalities and health and safety.
- (c) Within their terms of reference, the named overview and scrutiny committees will:
 - i. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - ii. make reports and/or recommendations to the full Council and/or the executive and/or any or area committee in connection with the discharge of any functions;
 - iii. consider any matter affecting the area or its inhabitants.
- (d) Any Overview and Scrutiny Committee may appoint Sub-Committees to discharge some of the functions allocated to them.
- (e) Two or more Overview and Scrutiny Committees may appoint Joint Sub-Committees and may arrange for the discharge of their functions by any such Sub-Committees so that the Scrutiny Role may be performed in a cross-cutting way.
- (f) The Terms of Reference of any Sub-Committees or Joint Sub-Committees must be clearly stipulated by the appointing "parent" Overview and Scrutiny Committee(s) together with a defined period for

their operation and existence and must be within the powers of the appointing Overview and Scrutiny Committee(s).

- (g) The Business Management Overview and Scrutiny Committees may appoint of working parties, panels or other groups to assist the scrutiny members to discharge their responsibilities. Such groups are not subject to the rules on public meetings and political balance, and accordingly have no powers other than to investigate and make recommendations to the parent Committee. The Terms of Reference of such groups must be within the Committee appointing them and must be clearly stipulated, with a defined period for their operation and existence.

6.03 Specific functions

(a) **Policy development and review.** Overview and scrutiny committees may:

- (i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (vi) question a relevant officer where a petition has been submitted in accordance with the Petition Scheme set out in the Public Participation and Engagement rules.

(b) **Scrutiny.** Overview and scrutiny committees may:

- (i) review and scrutinise the decisions made by and performance of the executive and/or committees and Council officers both in relation to individual decisions and over time;
- (ii) scrutinise decisions, which the executive is planning to take and comment on them to the executive;
- (iii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iv) question members of the executive and/or committee and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (v) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

(vi) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
(vii) question and gather evidence from any person (with their consent).

(c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for any finances made available to them.

(d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations to full Council for future work programmes and amended working methods if appropriate.

(e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of any officers employed to support their work.

6.04 Proceedings of overview and scrutiny committees

Overview and Scrutiny Committees (including any Sub-Committees or Joint Sub-Committees) will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

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APPENDIX D

Article 7 – The Executive

References:

Section 11 and schedule 1 paragraphs 1, 2, 3, Local Government Act 2000
Chapters 4, 14 and 15, DETR Guidance

7.01 Role

The executive will carry out all of the authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 Form and composition

The executive will consist of the executive leader, together with up to nine councillors including a deputy leader appointed to the executive by the leader.

7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council and the leader's term of office starts on the day of the Council election Annual Meeting.

The Leader will hold office until:

- (a) they resign from office; or
 - (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
 - (c) he/she is no longer a Councillor; or
 - (d) the day of the next Council election Annual Meeting which follows his/her election as leader unless either (a) (b) or (c) occurs prior to that time.
- If the Council passes a resolution to remove the Leader, a new Leader is to be elected-
 - (a) at the meeting at which the Leader is removed from office, or
 - (b) at a subsequent meeting.

7.04 Other executive members

- The Leader can determine the number of councillors who may be appointed to the executive up to the permitted maximum

- The Leader may if he/she thinks fit, remove and replace any executive member at any time.

Only councillors may be appointed to the executive. There may not be co-optees and nor are deputies or substitutes for executive members permitted. Neither the Mayor nor the Deputy Mayor may be appointed to the executive and members of the executive (including the leader) may not be members of an overview and scrutiny committee.

Other executive members shall hold office until:

- (a) they resign from office; or
 - (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - (c) they are no longer councillors; or
 - (d) the end of term of office of the leader; or
 - (e) the next Council election Annual Meeting of the Council unless they are removed from office, either individually or collectively, by the leader unless either (a) (b) (c) or (d) occurs prior to that time
- The Leader may if he/she thinks fit, remove the Deputy Leader from office at any time.
 - Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in his/her place by no later than the next meeting of Full Council.
 - If for any reason the leader is unable to act or the office of the Leader is vacant, the Deputy Leader must take his/her place.

If for any reason the Leader is unable to act or the office of the Leader is vacant, and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant, the executive must act in the executive leader's place or must arrange for a member of the executive to act in his place.

7.05 Proceedings of the executive

The Leader will maintain a list in Part 3, Section 3.2 of this Constitution. The list will set out which individual members of the executive including the Deputy Leader, committees of the executive, area environment sub-committees, officers or joint arrangements are responsible for the exercise of particular executive functions and their terms of reference.

7.06 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the executive, committees of the executive, area

environment sub-committees, officers or joint arrangements are responsible for the exercise of particular executive functions.

7.07 Executive arrangements in the event of no leader being elected

If a situation arises where no political party has overall control on the Council and the Council is unable to elect a Leader the following arrangements will apply:

- i. The leaders of the political parties represented on the Council will form a Cabinet.
- ii. The Council will set the policy framework and budget and delegate power to the Chief Executive and other officers to take the majority of executive decisions, under political guidance from the Cabinet.
- iii. The Chief Executive and Cabinet will be held to account by the Business Management Overview and Scrutiny Committee.
- iv. The Chief Executive will be responsible for ensuring the introduction of these arrangements in the circumstances set out.

7.08 Assistant Cabinet Members

Other Councillors may, from time to time, be designated by the Leader as Assistant Cabinet Members. Such Councillors will not be a member of the Executive and will not participate in Executive decision making but may work closely with an Executive Member. He or she will not be a member of the Business Management Overview and Scrutiny Committee, nor any Overview and Scrutiny, Panel, Task and Finish Group relating to the specific responsibilities of the Executive Member he or she is assisting or any other area to which they are assigned, but will be able to serve on unrelated Overview and Scrutiny Committee, Panel, Task and Finish Groups.

An Assistant Cabinet Member may represent the relevant Executive Member at briefing meetings. He or she will not have delegated powers and will not be entitled to speak or vote at Cabinet meetings or Cabinet Committee meetings, nor deputise for the Cabinet Member when the Cabinet Member is called to appear at Overview and Scrutiny Committees.

The Leader will advise the Head of Governance in writing of the names of designated Assistant Cabinet Members and of the Cabinet Member they will assist. The Head of Governance will report the designation to the next meeting of the Council.

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APPENDIX E

Article 8 – Regulatory and other committees

8.01 Regulatory and other committees

The Council will appoint the committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 2 of that table.

Sub-Committees and panels

8.02 Following the annual meeting of the Council, standing committees shall appoint:

8.02.1 sub-committees and/or panels and, if appropriate, agree their terms of reference

8.02.2 a Chairman and, if considered necessary, a Vice-Chairman and substitute members

8.03 The standing Sub-Committees which are set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 2 of that table shall be appointed annually by a Special Joint Meeting of the parent Committees concerned, which will meet immediately following the Annual Meeting of the Council.

Additional Sub-Committees and Panels

8.04 Any Committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Such bodies' terms of reference and the delegation of powers to them shall be explicit and within the appointing committee's terms of reference.

8.05 A member of an additional sub-committee or panel must be a member of the sub-committee appointing it.

Appointment of Members to Committees, Sub-Committees and Panels

8.06 The Council (in the case of Standing Committees) or the parent committee (in the case of Sub-Committees or Panels) will appoint the members to serve on the Committee, Sub-Committee or Panel subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

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Appendix F

Article 10 – Area Committees and Forums and Local Strategic Partnerships

*References: Part VA, Local Government Act 1972
 Section 13, Local Government and Housing Act 1989
 Reg. 4, 5 and 16A Local Government (Committees and Political Groups) Regulations 1990
 Section 18, Local Government Act 2000
 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000
 Chapters 6 and 9, DETR Guidance*

10.01 Area sub-Committees and Forums

The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

10.02 Form, composition and function

(a) **Table of Area sub-Committees and Forums.** The Council will appoint the Area sub-Committees and Forums as set below:

Name of Committee	Composition	Terms of Reference
Chipping Barnet Residents Forum (Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards)	A Chairman and Vice-Chairman of each appointed by the Council. Any Member of the Council may attend.	Residents Forums provide an opportunity for any resident to raise local matters (“Public Works”). Items must be received by the Governance Service by 10am on the second working day prior to the meeting, for the item to be discussed at the Forum.
Hendon Residents Forum (Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards)		Public works items are defined as relating to:
Finchley and Golders Green Residents Forum (Woodhouse, West Finchley, Finchley Church End, Garden Suburb, Golders Green, Childs Hill and East Finchley Wards)		<ul style="list-style-type: none"> • Parks and Greenspaces • Trees • Allotments

		<ul style="list-style-type: none"> • Highways • Pavements • Traffic/Transport • Parking • Utility issues • Refuse/Recycling • Street cleaning • Local crime <p>The Six Month Rule shall apply whereby matters dealt with cannot be raised again within this period.</p> <p>The Residents Forum may also be a forum for certain consultations from the Council as decided by the Chairman.</p> <p>Petitions on matters relevant to the Constituency only can also be presented.</p> <p>Matters must not relate to Planning or Licensing Issues.</p> <p>Relevant matters raised at the Forum may be referred by the Forum Chairman onto the agenda for the related Area Environment sub-Committee.</p> <p>Comments made are reported to the relevant decision maker. Decision makers must respond to the issue(s) raised within 20 working days.</p> <p>Cabinet/Executive Forums:</p>
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Name of Committee	Composition	Terms of Reference
		<p>The Leader or a nominated Cabinet Member to chair a themed Residents' Forum at least once a year on any subject the Leader decides and for which the Leader and Cabinet have Executive responsibility.</p> <p>These can be used as part of the consultation process.</p> <p>Executive Forums will discuss and question matters relevant to these areas and to take questions.</p> <p>Questions must be submitted to the Governance Service by 6pm on the day before the day of the meeting.</p>

Name of Committee	Composition	Terms of Reference
Area Environment Sub-Committees:	Composed of one councillor (plus a substitute member) for each ward as follows:	These sub-committees discharge functions delegated to them by both the Council and the Executive.
Chipping Barnet (Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards)	7 (one per ward and one substitute for each ward)	<p>Their Council functions are set out in Part 3 of the Constitution, Section 2 Responsibility for Council Functions.</p> <p>Their Executive functions are set out in Part 3 of the Constitution, Section 3 Responsibility for Executive Functions</p> <p>Relevant matters referred by the associated Residents' Forum will be included in the agenda for the Area Environment sub-Committee together with any statutory Area Environment business.</p>
Finchley and Golders Green (Woodhouse, West Finchley, Finchley Church End, Garden Suburb, Golders Green, Childs Hill and East Finchley Wards)	7 (one per ward and one substitute for each ward)	<p>The Area Environment sub-Committee will decide on the course of action for each item;</p>
Hendon (Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards)	7 (one per ward and one substitute for each ward)	<ul style="list-style-type: none"> - whether to do nothing - to note it - ask officers to present a report to a future meeting of the Area Environment sub-Committee - formally refer to the Cabinet Member - formally instruct an officer (within their powers) to take action - to bring the matter to the attention of the Ward Councillors

Name of Committee	Composition	Terms of Reference
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Area Planning Sub-Committees:	Composed of one councillor (plus a substitute member) for each ward as follows	As set out in Part 3 of the Constitution, Section 2 Responsibility for Council Functions.
East Area Planning Sub-Committee (Underhill, High Barnet, East Barnet, Oakleigh, Brunswick Park, Coppetts, Totteridge, East Finchley, West Finchley, Woodhouse Wards)	10 (one per ward and one substitute for each ward)	
West Area Planning Sub-Committee (Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon, Mill Hill, Childs Hill, Finchley Church End, Garden Suburb, Golders Green Wards)	11 councillors (one per ward and one substitute for each ward)	

- (b) **Delegations.** The Council and the executive will include details of the delegations to area committees in Part 3 of this Constitution, including the functions delegated showing which are the responsibility of the executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

Area Environment sub-Committees when considering a proposal for discharging an Executive function for a location that crosses their boundaries may take decisions to approve recommendations submitted to them. When such a proposal is to be considered the Head of Governance shall make arrangements for a joint meeting of the sub-committees within whose areas the proposal falls. Voting at every such meeting shall be separate among the members of the different sub-committees. If any sub-committee fail to agree the recommendations then the whole proposal shall be submitted to the Cabinet for decision.

10.03 Conflicts of interest – membership of area committees and overview and scrutiny committees

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member,

then the councillor may not speak or vote at the overview and scrutiny committee meeting.

- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.04 Area sub-Committees – access to information

Agendas and notices for area committee meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

10.05 Executive Members on Area sub-Committees

A Member of the Executive may serve on an Area sub-Committee if otherwise eligible to do so as a councillor.

10.06 Executive members on residents forums

A Member of the Executive may be the Chairman or Vice-Chairman of a residents forum if so appointed by the Council.

10.07 Local Strategic Partnership

- (a) A Local Strategic Partnership is a non-statutory body which brings together the key public, private and voluntary organisations within the borough to identify and articulate the needs and aspirations of Barnet's local communities and to provide a forum to assist the Council by collectively reviewing and steering public resources, through identifying priorities in Sustainable Community Strategies. In Barnet the functions of a Local Strategic Partnership are discharged by the Barnet Partnership Board.
- (b) The Barnet Partnership Board is not the ultimate decision maker. All target-setting and consequential financial, commissioning or contractual commitments proposed by it must be formalised through the Council's Executive or through one of the other members of the Board (for example if policing or health resources are involved).
- (c) The Council's Executive will exercise a leadership role in relation to the Barnet Partnership Board and specifically will ensure that it has a formal constitution setting out its terms of reference, membership, organisational and management arrangements and the duties and responsibilities of Partnership members, such duties and responsibilities to be incorporated into a partnership agreement to be signed by all Partnership members.
- (d) The Council's Executive will ensure that the Barnet Partnership Board develops clear and transparent lines of accountability and responsibility between its members.
- (e) The Council's Executive will, on an annual basis (or at more frequent intervals should it deem it appropriate to do so), consider a report on

the work and performance of the Barnet Partnership Board and its thematic Boards, Partnerships and sub-Partnerships, such annual report to include, amongst other things, a review of the governance arrangements and the progress made in respect of both Sustainable Communities Strategy priorities and objectives.

- (f) The Council's Executive will ensure that a Partnership Register is maintained (and regularly reviewed) by the Council's Officers which sets out key information in relation to the governance arrangements of the Barnet Partnership Board, its thematic Boards, Partnerships and Sub-Partnerships, to include details on terms of reference, membership, financial arrangements, statutory requirements, accountability, risk assessments and data sharing protocols.
- (g) The Council will ensure that appropriate arrangements are in place to enable appropriate scrutiny of the Barnet Partnership Board, thematic Boards, Partnerships and sub-Partnerships and relevant partner associations in accordance with statutory provision.

NOTE: Provisions relating to Health and Well Being Boards are slightly different and reflect Government regulations on their remit and legal status. Terms of Reference are set out in Responsibility for Functions.

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APPENDIX G

Article 12 – Chief Officers

12.01 Management Structure

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

Chief Executive
Chief Operating Officer
Director for People
Director for Place
Assurance Director
Director of Children's Services
Adults and Communities Director
Director of Public Health
Public Health Lead Commissioner

The Assurance Director will have reserve powers to exercise all or any of the powers delegated to the Head of Legal or the Head of Governance under the Constitution, together with the following statutory officer powers:

- Members' declarations of acceptance of office
- Members' notice of resignation
- Giving notice of casual vacancies
- Convening Council to fill Mayoral casual vacancy
- Signing summonses for council meetings and receiving notices as to Members' addresses for summonses
- Receiving notification of political groups for the calculation of political balance
- Returning Officer for election of parent governor representatives to Committee
- Deposit of documents
- Certification and authentication of documents, byelaws and copy minutes and signing of other relevant formal notices and documents.

(c) Statutory Officers

The Council will designate the following posts as shown:

Post	Statutory Designation
Chief Executive	Head of Paid Service (works with Members and the Strategic Commissioning Board to deliver the council's themes)
Assurance Director	Monitoring Officer
Chief Operating Officer	Chief Finance Officer Section 151 Officer
Director for People and Director of Children's Services	Director of Children's Services
Adults and Communities Director	Director for Adult Social Care
Deputy Chief Operating Officer	Deputy Section 151 Officer
Public Health Lead Commissioner	Director of Public Health

Such posts will have the functions described in Article 12.02-12.06 below.

12.02 Functions of Head of Paid Service

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

12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Operating Officer, the Monitoring Officer will report to the full council, or to the Executive in relation to an executive function, if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Constitution, Ethics and Probity Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution, Ethics and Probity Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Code of Conduct referred by the Standards Committee. Then s/he or they will make reports and recommendations in respect of such allegations to the Leaders Panel.
- (e) **Proper officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the council, in particular through the provision of legal advice and advice on probity and good administration.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

References:

(Section 5), Local Government and Housing Act 1989

Sections 60, 64-66, Local Government Act 2000

Chapters 8 and 9, DETR Guidance

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

12.04 Functions of the Chief Finance Officer

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

12.05 Functions of the Director of Children's Services

- (a) The Council as a children's services authority is required by the Children Act 2004 to appoint an officer to be known as the Director of Children's Services.
- (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.

12.06 Functions of the Director for Adults and Social Care

- (a) The Adults and Communities Director 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 Adults and Communities Director 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.

12.07 Functions of the Director of Public Health (DPH)

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

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

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

12.09 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

12.10 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

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Appendix H

Article 13 - Decision Making

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights and equalities;
- (d) a presumption in favour of openness and transparency; and
- (e) clarity of aims and desired outcomes.

References:

Chapter 7, DETR Guidance

13.03 Type of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions
 - (i) A "key decision" means an executive decision which, is likely:-
 - (a) to involve expenditure or savings in excess of £500,000 as well as otherwise being, significant having regard to the council's budget for the service or function to which the decision relates; or
 - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the borough.

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better

or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules and the Executive Procedure Rules set out in Part 4 of this Constitution.

*Reference: Chapter 7, DETR Guidance
Regulations made under section 22, Local Government Act 2000.*

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the executive

Subject to Article 13.08, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by overview and scrutiny committees

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

APPENDIX I

Article 14 – Finance, Contracts, Land Disposal and Legal Matters

References:

Section 135, 151, 223 and 234, Local Government Act 1972

Part VIII, Local Government Finance Act 1988

14.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of the Constitution.

14.03 Legal Proceedings

The Head of Legal is authorised to institute, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal considers that such action is necessary to protect the Council's interests.

The Head of Legal has delegated powers to authorise officers to appear in court on the Council's behalf.

14.04 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £75,000, entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be;

1. the Chief Executive
2. the Monitoring Officer
3. the Head of Legal
4. any Chief Officer of the Council concerned with the matter to which the document relates: or
5. any officer authorised in writing by such Chief Officer.

14.05 Common Seal of the Council

Common Seal

The Common Seal of the Corporation shall be kept in a safe place and be secured by two different locks. The Head of Governance shall have the custody of the key of one lock and the Monitoring Officer shall have the custody of the key of the other.

Sealing and Execution of Documents

The Chief Executive, the Monitoring Officer or the Head of Governance shall have authority:-

1. to jointly affix the Common Seal and execute under Seal any deed or document subject to at least two of the above named Officers of the Council being present and being signatories.-
2. The Officers of the Council referred to above shall have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.

Members and Officers to Sign Documents Executed under Seal

All deeds, instruments and writings which may require the Common Seal to be affixed shall also be signed after the sealing by the:-

“Interests: Where it becomes apparent to an Officer, involved in the sealing or execution of documents, that a personal or prejudicial interest exists in a matter, a declaration of the nature of the existence of that interest should be made as soon as possible.”

Facsimiles of Common Seal

The following categories of documents may be authorised by a facsimile of the Common Seal of the Council and the printed names or facsimiles of

the signatures of the Mayor and the Director of Corporate Governance. The facsimiles or printed names must be authenticated by entries in the book referred to below and initialled by the Chief Executive, the Monitoring Officer or the Head of Governance:-

1. stock certificates and transfers;
2. grants of rights of burials;
3. superannuation fund documents.

Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Chief Executive, Monitoring Officer or the Head of Governance in a book to be provided for the purpose.

14.06 Disposal of land and real property

Every disposal of land and real property made by the Council will comply with the Management of Real Estate, Property and Land rules set out in Part 4 of the Constitution.

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APPENDIX J

Responsibility for Functions

*References: Chapter 5, Guidance
The Local Authorities (Functions and Responsibilities) (England)
Regulations 2000
Section 13, Local Government Act 2000*

1. COUNCIL FUNCTIONS AND EXECUTIVE FUNCTIONS

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

The Council is operating the 'new style' leader executive arrangements in accordance with the Local Government and Public Involvement in Health Act 2007"

The Council's statutory duties are now broadly:

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

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

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

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

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

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

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

2. ALLOCATION OF LOCAL CHOICE FUNCTIONS

Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out the local choice functions that can be allocated to the

Executive or to the Council or to Council Committees. The following table shows which body is responsible for each of these. The bodies are described in the table in section 2.

Function	Decision making body
1. Any function under a Local Act.	1. The Executive
2. Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This excludes matters where statutory arrangements exist).	2. Appeals Committee
4-6. Making arrangements for appeals against exclusion of pupils, school admission and appeals by governing bodies.	4-6. The Council but delegated to the Head of Governance.
10-15. Any function relating to contaminated land and statutory nuisances.	10-15 Planning and Environment Committee with delegation to Area Committees and Officers.
16. & Planning and other information 17. Notices.	16. & Planning and Environment Committee, with delegation to Area Committees and Officers, except in so far as the notice relates to an executive function.
18. Highways agreements.	18. Planning and Environment Committee, with delegation to Area Committees and Officers, except in so far as the agreement relates to an executive function.
19. Appointments.	19. The Council, with delegation to the General Functions Committee or in the case of Chief Executive and Chief Officer appointment, on the recommendation of the Remuneration Committee.

3. RESPONSIBILITY FOR COUNCIL FUNCTIONS

Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out the Council functions that are not allocated to the Executive. The following table sets out the body responsible for these.

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

Body responsible	Functions	Membership
Council	Council can discharge all non-executive functions but most are delegated to committees or officers.	All members of the Council.
Council acting as the Licensing Authority	Agreeing and reviewing the Statement of Licensing Policy.	All Members of the Council
Licensing Committee	<p>All functions under the Licensing Act 2003 and the Gambling Act 2005 associated Regulations, not otherwise delegated to the Licensing Sub-Committee.</p> <p>Agreeing increases to fees and charges for licence applications under the Gambling Act 2005.</p> <p>Applications and appeals and revocations relating to Sex Shops, Sex Cinemas and Sex Encounter Establishments</p> <p>Applications, appeals and revocations relating to Special Treatment Licenses.</p> <p>Application for film classification for films shown within the Borough</p> <p>Gaming, entertainment, food and miscellaneous licensing including functions relating to: street trading including the designation of permanent pitches for street trading</p> <p>Safety at sports ground certification.</p>	10 Non-executive Councillors
Licensing Sub-Committee	<p>All functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, as delegated to it by the Licensing Committee.</p> <p>All functions in relation to other licensing as delegated by the Licensing Committee.</p>	10 Non-executive Councillors

Body responsible	Functions	Membership
Audit Committee	<p>Statement of Purpose</p> <p>The purpose of an audit committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.</p> <p>Terms of Reference</p> <p><u>Audit Activity</u></p> <ol style="list-style-type: none"> 1. To consider the audit annual report and opinion. 2. To consider summaries of specific internal audit reports as requested. 3. To consider reports dealing with the management and performance of the providers of internal audit services. 4. To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale. 5. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance. 6. To consider specific reports as agreed with the external auditor. 7. To comment on the scope and depth of external audit work and to ensure it gives value for money. 8. To liaise with the body responsible over the appointment of the Council's external auditors. 9. To commission work from the internal and external audit, proportionate to risk identified and with agreement from Chief Executive. <p><u>Regulatory Framework.</u></p> <ol style="list-style-type: none"> 10. To review any issue referred to it by the chief executive or a director, or any Council body. 	<p>The proportionality rules apply to the membership of this Committee, which should comprise between 5 and 7 members.</p> <p>The membership should also include two independent, non-voting Members with a period of appointment of four years, co-terminus with Council.</p> <p>The Chairman should not be a member of the Executive, and should preferably be a member of an opposition party. Additionally, the Chairman should not be permitted to serve in that role for more than 4 consecutive years.</p>

Body responsible	Functions	Membership
	<p>11. To monitor the effective development and operation of risk management and corporate governance in the Council.</p> <p>12. To monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy and the Council's complaints process.</p> <p>13. To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.</p> <p><u>Accounts</u></p> <p>14. To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</p> <p>15. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p><u>Annual Report</u></p> <p>16. The Audit Committee shall prepare a report to Full Council on annual basis on its activity and effectiveness</p>	
Appeals Committees	<p>Determining an appeal or application where there is a right of appeal to a Council committee. This does not include matters, which are the responsibility of the Licensing Committee or the Licensing Sub-Committee, nor does it include special statutory appeal or review bodies. It does include:</p> <ul style="list-style-type: none"> • Appeals relating to renovation, disabled facilities, home repair assistance and common parts facilities grants • Statutory complaints against school governing bodies • Appeals under the housing right to 	<p>10 councillors Plus 2 substitutes from each political group.</p>

Body responsible	Functions	Membership
	compensation scheme.	
Planning and Environment Committee	<p>1. Take action under Town and Country Planning, and associated legislation including Part 8 of the Anti Social Behaviour Act 2003 relating to high hedges</p> <p>The following functions are reserved to the Committee and cannot be discharged by an Area Committee or officer.</p> <ul style="list-style-type: none"> • planning applications which involve a significant departure from the statutory development plan; • planning applications on behalf of the Council or where the Council has a significant interest in the development; • planning applications within the categories of development which must be referred to the Mayor of London; and • matters of significance to the entire borough or where major issues extend across boundaries of sub-committees or across local government boundaries. <p>(Reports on all the matters reserved to the Committee shall be made direct to the Committee and not through an area sub-committee.)</p>	10 Non-Executive Councillors

Body responsible	Functions	Membership
	<p>2. Contaminated land and all statutory nuisances.</p> <p>3. Commons registration and town and village greens including powers of protection and enforcement although in practice these specific functions will be discharged by officers. (Which may include considering the recommendations of a non-statutory inquiry chaired by an independent person).</p> <p>4. Council highways functions (including highways use and regulation, access to the countryside, arrangements and extinguishment of public rights of way) which are limited to:</p> <ul style="list-style-type: none"> • <i>creating, stopping up and diverting footpaths and bridleways</i> • <i>asserting and protecting public rights to use highways</i> • <i>removing things deposited on highways which cause nuisance</i> <p>All other highway functions are Executive functions.</p> <p>5. Gaming, entertainment, food and miscellaneous licensing in so far as not otherwise the responsibility of the Licensing Committee or the Licensing Sub-Committee.</p> <p>6. Health and Safety regulation (otherwise than as an employer).</p>	

Body responsible	Functions	Membership
<p>Area Planning Sub-Committees (2)</p>	<p>Determine planning applications within the boundaries of their areas, in accordance with Council policy and within budget, that relate to town and country planning and development control, including tree and hedgerow protection.</p> <p>[For the purposes of this section a planning application is defined as an application for planning permission as defined by the Town and Country Planning Act 1990, as amended, but also includes applications for approval of reserved matters, Listed Building and Conservation Area Consents and consent under Tree Preservation Orders and Hedgerow legislation.]</p> <p>This excludes the functions reserved to the Planning and Environment Committee</p> <p>If in cases where the Council has a minor interest in developments where a decision is required by a Committee, the Director for Place will refer the matter to the appropriate Area Planning Committee.</p> <p><i>Relevant Considerations for Area Planning sub-Committees</i></p> <p>A. consideration of planning applications by Area Planning Sub-Committees:</p> <p>The work of the Area Planning Sub-Committees consists mostly of determining applications for planning applications.</p>	<p>East Area Planning sub-Committee</p> <p>10 Councillors each representing one of the following Wards:</p> <p>Underhill High Barnet East Barnet Oakleigh Brunswick Park Coppetts Totteridge East Finchley West Finchley Woodhouse</p> <p>West Area Planning sub-Committee</p> <p>11 Councillors each representing of the following Wards</p> <p>Hale Edgware Burnt Oak West Hendon Colindale Hendon Mill Hill Childs Hill Finchley Church End, Garden Suburb Golders Green</p>

Body responsible	Functions	Membership
	<p>One potential cause of such delays is the deferral by sub-committees of planning applications for further information or for members to undertake site visits. To minimise this there is a general presumption that:</p> <ul style="list-style-type: none"> • Chairmen of Area Planning Sub-Committees should arrange for site visits to be made in advance of the Sub-Committee meeting, particularly where the proposals appear to be contentious or they are of major importance to the area; • Sub-Committee members who have queries on applications will raise them either at the site visit, or, in any event, as soon as possible before the meeting at which they will be considered. <p>B. In so far as developments where the Council has minor interests in the development, these matters will normally be dealt with by the Assistant Director of Planning and Development Management and delegated powers, unless it proves necessary to refer them to Committee , and are:</p> <ul style="list-style-type: none"> • Minor developments on the public highway or Council owned land – including crossovers, hard standings/ramps, bus shelters, advertisements, satellite dishes, etc. • Minor extensions or ancillary building proposals less than 1000 sq m to buildings or property, including minor school extensions, housing estate, ancillary buildings, community services, etc. 	

Body responsible	Functions	Membership
	<ul style="list-style-type: none"> • Minor developments on the public highway or Council owned land – including crossovers, hard standings/ramps, bus shelters, advertisements, satellite dishes, etc. • Minor extensions or ancillary building proposals less than 1000 sq m to buildings or property, including minor school extensions, housing estate, ancillary buildings, community services, etc. • Any ‘other’ or ‘minor’ developments as defined by the ODPM in PS1/PS2 Planning statistical categories of developments, for example 9 or less dwellings, advertisements, Listed Building and Conservation Area consents.) 	
<p>Area Environment Sub-Committees (3)</p>	<p>These sub-committees discharge functions delegated to them by both the Council and the Executive.</p> <p>Their Executive functions are set out in Part 3 of the Constitution, section 3.10 Responsibility for Executive Functions.</p> <p>Their Council functions are set out below.</p> <p>Relevant matters raised at the Residents’ Forum may be included in the agenda for the Area Environment sub-Committee together with any statutory Area Environment business.</p> <p>The Area Environment Sub-Committee will decide on the course of action for each item;</p> <ul style="list-style-type: none"> - whether to do nothing - to note it - ask officers to present a report to a future meeting of the Area Environment sub-Committee - formally refer to the Cabinet Member - formally instruct an officer (within their powers) to take action - to bring the matter to the attention of the Ward Councillors 	<p>Composed of one councillor (plus a substitute member) for each ward as follows:</p> <p><u>Chipping Barnet:</u></p> <p>7 councillors</p> <p>Underhill, High Barnet, East Barnet, Oakleigh, Brunswick Park, Coppetts and Totteridge Wards.</p> <p>1 substitute Member per Ward</p> <p>The Chairman to be appointed by Council</p> <p><u>Finchley & Golders Green</u></p> <p>7 councillors</p> <p>Woodhouse, West Finchley, Finchley Church End, Garden Suburb, Golders Green, Childs Hill and East Finchley Wards.</p> <p>1 substitute Member per ward.</p> <p>The Chairman to be appointed by Council.</p>

Body responsible	Functions	Membership
		<p><u>Hendon</u></p> <p>7 councillors</p> <p>Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards.</p> <p>1 substitute Member per Ward.</p> <p>The Chairman to be appointed by Council.</p>
<p>General Functions Committee</p> <p>Meets as and when required but in practice functions discharged by officers.</p>	<p>All other Council functions that are not reserved to Council including</p> <ul style="list-style-type: none"> • Appointing representatives on outside bodies • Appointing representatives to School Governing Bodies • Staff matters (i.e. salaries and conditions of service) • Polling Stations • Ward Boundaries • Elections in general <p>Where decisions have a significant impact on the Pension Fund and/or Council budget, decisions will be subject to agreement also by the Pension Fund Committee and/or Cabinet Resources Committee.</p> <p>Collective Disputes - In accordance with the Council's Trade Union and Employee Engagement Framework, certain disputes may be referred to the General Functions Committee.</p> <p>a) Only where there has been a failure to agree at People Management Group about the implementation (or proposed implementation) of change affecting working arrangements can the matter be referred to the General Functions Committee at its next scheduled meeting.</p> <p>(b) Issues concerning working arrangements which are submitted to the General Functions Committee will be</p>	<p>7 councillors</p>

Body responsible	Functions	Membership
	<p>supported by the minutes of the Area Joint Consultation Committee and People Management Group which considered the matter.</p> <p>(c) Where the matter is not resolved at this point, the Collective Disputes Procedure is regarded as exhausted and the Council will advise trade unions and employees of its intentions.</p> <p>(d) When considering the report, a representative of the trade unions may be requested to speak with the consent of the Chairman or be questioned by the Committee before a decision is made.</p> <p>(e) Consider reports on restructure in line with the HR regulations.</p>	
Constitution, Ethics and Probity Committee	<p>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.</p> <p>To consider and make recommendations to the Council on: (i) how it can satisfy the continuing duty to promote and maintain high standards of conduct for Members; (ii) on the Code of Conduct for Members; and (iii) on ethical standards in general across the authority.</p>	8 councillors
Pension Fund Committee	As set out in the Pension Fund Governance Compliance Statement appended.	6 Councillors
Remuneration Committee	<p>Authority</p> <p>In accordance with supplementary guidance issued by the Department for Communities & Local Government in 2012 and February 2013 Council be given the opportunity to vote on Chief Officer salary packages, of salary packages of £100,000 or more and any severance packages at or above £100,000 and in instances where Council has delegated these functions to the Remuneration Committee, then the Remuneration Committee will :</p>	<p>5 Councillors</p> <p>Chairman – Leader of the Council</p> <p>Deputy Leader of the Council.</p> <p>Chairman of General Functions Committee.</p> <p>Leader of the Opposition</p> <p>Leader of the minority opposition group.</p> <p><i>One substitute from each</i></p>

Body responsible	Functions	Membership
	<p>Decide on and report back to Council on</p> <ol style="list-style-type: none"> a. Chief Officer salary packages b. Salary packages to be offered of £100,000 or more c. Severance packages per individual of £100,000 or more. (severance package will consist of redundancy pay, pay in lieu of notice, any holiday pay the employee is contractually entitled to and any pension lump sum the employee is entitled to in accordance with the Local Government Pension Scheme). <p>Responsibilities</p> <p>The Committee will take account of the Reward & Employment strategies of the Council and ensure that it is fully briefed on the prevailing organisational approach. The following list of responsibilities is not intended to be exhaustive:</p> <ol style="list-style-type: none"> a. To develop and approve the Pay Policy and be responsible for the publication of the annual statement, which will include: <ul style="list-style-type: none"> • The level and elements of remuneration for each Chief Officer • Relationship of the remuneration of Chief Officers and other officers • A description of the relationship between decisions made on the lowest paid and top paid employees in the organisation • Remuneration of the lowest paid (with the definition of the lowest paid and the reasons for adopting that definition) • Remuneration on recruitment, increases and additions to remuneration, use of performance-related pay and bonuses, termination payments 	<p><i>political group</i></p> <p><i>When carrying out the function of appointment of Chief Officers, a relevant Cabinet Member may be invited and entitled to sit and vote as a substitute Member for one of the substantive Members of their Group on the Committee</i></p>

Body responsible	Functions	Membership
	<ul style="list-style-type: none"> • Transparency arrangements • Reasons for chosen approach to remuneration levels and how this is to be implemented • Differences of approach to groups of employees and the reasons for them • Pay dispersion • Incremental progression factors • Use of honoraria and ex-gratia payments • Determine remuneration parameters for officers who have returned to work for a local authority • Appointment and remuneration terms <p>b. To review annually remuneration, as defined above, for the Council's Chief Officers except those elements determined nationally or pensions.</p> <p>c. To keep under review the terms & conditions as they relate to pay for all Council employees and where changes have a significant impact on the Pension Fund and/or Council budget, decisions will be subject to agreement also by the Pension Fund Committee and/or Cabinet Resources Committee and/or General Functions Committee. .</p> <p>d. To receive information in the context of reward from organisations that have a relationship with the Council or arrangements that may influence decisions when determining pay</p> <ul style="list-style-type: none"> • The employees of Barnet Group • Contractors • Shared management schemes • Outplacements • Agency and other staff <p>e. To have oversight to ensure that remuneration terms of appointments are appropriate.</p> <p>f. To take advice from the Pensions Committee with regard to decisions</p>	

Body responsible	Functions	Membership
	<p>on pay that would impact upon pension arrangements or contributions.</p> <p>g. To set parameters for the remuneration of Chief Officers on recruitment.</p> <p>h. To ensure that sufficient flexibility exists within the pay policy to allow responses to unforeseen circumstances without having recourse to revising the pay policy statement between annual reviews.</p> <p>i. To have oversight of the national pay agenda and consider the implications in the local context</p> <p>j. To commission relevant research and/or comparative information on salaries in the public and private sectors e.g. from:</p> <ul style="list-style-type: none"> • The Council’s own HR function • National and/or Regional employers’ organisations • Independent consultancy organisations with relevant experience in pay market analysis • Submissions made by the Associations on behalf of their members and make recommendations thereon <p>k. To ensure that the Public Sector Equality Duty, as set out by the Equality Act 2010, is applied throughout the pay and reward structure.</p> <p>l. To take cognisance of the CLG Code of Recommended Practice for Local Authorities on Data Transparency.</p> <p>m. To reference back to previous year’s actual remuneration for Chief Officers and senior employees (definition of senior employee is consistent with CLG Code of Recommended Practice for Local Authorities on Data</p>	

Body responsible	Functions	Membership
	<p>Transparency).</p> <p>n. To obtain assurance that adequate internal and external moderation and benchmarking takes place when senior posts are subject to job evaluation.</p> <p>o. To take account of forward plans and the impact of remuneration on workforce planning, talent management and succession planning.</p> <p>p. To review remuneration arising from performance management and ensure that any performance-related pay mechanisms are fair and transparent.</p> <p>q. To refer such items as necessary to the Council</p> <p>r. To refer to guidance from the Secretary of State.</p> <p>s. To deal with Chief Officer Appointments, Discipline and Capability matters</p> <p>Protocols</p> <p>u. To declare any conflicts of interest.</p> <p>Frequency & attendance</p>	
Health and Well-Being Board	<ol style="list-style-type: none"> To jointly assess the health and social care needs of the population with NHS commissioners, and apply the findings of a Barnet joint strategic needs assessment (JSNA) to all relevant strategies and policies. To agree a Health and Well-Being Strategy for Barnet taking into account the findings of the JSNA and performance manage its implementation to ensure that improved outcomes are being 	<p>Cabinet Member for Public Health</p> <p>Cabinet Member for Adults</p> <p>Cabinet Member for Education, Children and Families</p> <p>Director of Public Health,</p>

Body responsible	Functions	Membership
	<p>delivered.</p> <ol style="list-style-type: none"> 3. On behalf of the Barnet Partnership Board, to be the lead partnership body for health and social care matters in the borough as identified in the Sustainable Community Strategy and other Barnet policies and programmes. 4. To work together to ensure the best fit between available resources to meet the health and social care needs of the population of Barnet (including children), by both improving services for health and social care and helping people to move as close as possible to a state of complete physical, mental and social well-being. Specific resources to be overseen include money for social care being allocated through the NHS; dedicated public health budgets; and Section 75 partnership agreements between the NHS and the Council. 5. To consider all relevant commissioning strategies from the CCG and the NHS Commissioning Board and its regional structures to ensure that they are in accordance with the JSNA and the HWBS and refer them back for reconsideration 6. To receive assurance from all relevant commissioners and providers on matters relating to the quality and safety of services for users and patients 7. To directly address health inequalities through its strategies and have a specific responsibility for regeneration and development as they relate to health and care. To champion the commissioning of services and activities across the range of responsibilities of all partners in order to achieve this. 8. To promote partnership and, as appropriate, integration, across all necessary areas, including the use of joined-up commissioning plans across the NHS, social care and public health. 9. To support joint commissioning of 	<p>Barnet and Harrow</p> <p>Director for People (Interim Director for Children's Service)</p> <p>Director of Adults and Communities</p> <p>Barnet Clinical Commissioning Group- Board members x 3</p> <p>Barnet Clinical Commissioning Group- Chief Officer</p> <p>Barnet Healthwatch representative</p> <p>NOTE 1: Each member will be able to nominate a substitute member if they are unable to attend.</p> <p>NOTE 2: The flexibilities given in the Local Authority (Public Health, Health and Well-Being Board and Health Scrutiny) Regulations 2013(SI 218) to disapply elements of the 1972 Local Government Act have been used to:</p> <p>Waive requirement for proportionality</p> <p>Allow voting rights to members other than Members of the Council.</p>

Body responsible	Functions	Membership
	<p>services and the use of pooled budgets, where appropriate, to enable the more efficient use of resources. As and when they are introduced, to manage and allocate a 'community budget' for health and care.</p> <p>10. To oversee and give direction to the work of the Financial Planning Group</p> <p>11. To receive reports and recommendations from the Summit meetings between the HWBB and all the Partnership Boards that report to it</p> <p>12. To receive the Annual Report of the Director of Public Health and commission and oversee further work that will improve public health outcomes, the Health and Well-Being Implementation Group and client group specific partnership boards and receive reports from them at least annually.</p>	

4. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

General

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

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

4.2 Cabinet Members

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

Portfolio	Responsibilities	Delegation
LEADER OF THE COUNCIL	<p>The Leadership of the Council. Specific individual responsibilities:</p> <ul style="list-style-type: none"> • Strategy • Communications • Strategic equalities and diversity • Responsibility for the Oversight of the Council's duties as an employer under Health and Safety related legislation. • Mayoralty • Corporate Governance • Corporate Anti Fraud <p>To ensure the promotion of Equalities</p> <p>To lead on budget and policy formulation and implementation in relation the Regeneration Strategy and economic and strategic development.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The Leader may discharge any function of the Executive.</p> <p>The Deputy Leader may discharge any function of the Leader during periods for which the Leader has given formal notification that he or she will be unable to be contacted or in circumstances where the Leader cannot be contacted due to illness or other indisposition, or in cases of utmost urgency where the Leader cannot be contacted by any means.</p>
RESOURCES AND PERFORMANCE	<p>To lead on budget and policy formulation and implementation in relation to:</p> <ul style="list-style-type: none"> • resources (including billing, collection and recovery of local taxation) • financial forward planning and budgeting • the effective use of resources and value for money • risk management • asset management • corporate procurement • Human resources • Insurance • Fees and charges <p>The monitoring of the Council's budget and to instigate such interventions as necessary to ensure spending is kept within limits determined by Council.</p> <p>The administration of Housing and Council Tax Benefits.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

	<p>To lead on budget and policy formulation and implementation in relation to Performance.</p> <p>To secure the most beneficial terms for services and goods provided to the Council.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	
<p>EDUCATION, CHILDREN AND FAMILIES</p>	<p>To lead on budget and policy formulation and implementation in relation to the Children Act 2004 and the Education and Inspection Act 2007.</p> <p>To enhance the Council's corporate parenting role and to champion the causes of all children in the London Borough of Barnet, promoting opportunity for all children.</p> <p>Includes Children's Social Care and the Youth Offending Team and the advantages offered by working with other agencies to secure a seamless approach to all aspects of children's services.</p> <p>To lead on budget and policy development and implementation in relation to the Children and Young People Plan and associated sub-strategies relating to:</p> <ul style="list-style-type: none"> • Education • Inclusion • Child Poverty • Early Intervention and Prevention <p>with the objectives of:</p> <ul style="list-style-type: none"> • raising and enhancing standards, • providing ongoing education and services to schools, • continuing Early Years Provision and the Youth Service. <p>Work in Partnership with the Children's Trust Board to achieve better outcomes for children and families.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

	<p>To work with children service partners to improve lifelong learning outcomes.</p> <p>All schools matters (Community, Voluntary and Foundation) associated with the teaching and development of children and young persons and the optimising of opportunities to further the same (including pre-school preparation).</p> <p>To lead on budget and policy development and implementation in relation to investment in educational infrastructure in schools and libraries.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	
ADULTS	<p>To lead on budget and policy formulation and implementation in relation to adult social care.</p> <p>In particular, supporting choice and independence for service users.</p> <p>Promoting the best possible adult social services and seamless care in the community by working with and optimising all opportunities offered by other providers to further these aims.</p> <p>Working in partnership through the Health and Well Being Board to achieve better outcomes for local people.</p> <p>To lead on the project for Health and Social Care integration</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution</p>
SAFETY AND RESIDENT ENGAGEMENT	<p>To lead on budget and policy formulation and implementation in relation to community safety, community engagement, emergency planning and civic events.</p> <p>In particular, to build upon the Council's leadership role in improving community safety, embracing diversity and inclusiveness, removing</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph</p>

	<p>inequality and ensuring that each person and group in the community has opportunities for involvement.</p> <p>To work with the many different ethnic and religious groups to maintain community cohesion.</p> <p>To provide overall liaison with Barnet Borough Police.</p> <p>All matters and policy development relating to Community Safety, CCTV, fighting crime and anti-social behaviour, including Domestic Violence and combating graffiti, fly-tipping and environmental and trading standards regulation.</p> <p>To liaise with the Fire Brigade and the London Fire and Emergency planning Authority (LFEPA) to promote fire awareness and prevention in the Borough.</p> <p>To deliver better outcomes for community safety with Partners through the Safer Communities Partnership Board, providing member oversight of the Safer Communities Strategy</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>6 of Part 3 of the Constitution.</p>
<p>CUSTOMER ACCESS AND PARTNERS</p>	<p>To lead on budget and policy formulation and implementation in relation to:</p> <p>First class Customer Services, including development of:</p> <ul style="list-style-type: none"> • Customer access • Partnerships • Information Technology <p>In particular, to work in partnership to deliver the Sustainable Community Strategy through Barnet Partnership Board.</p> <p>To lead on the development and delivery of the One Barnet Programme.</p> <p>To lead on budget and policy formulation and implementation in</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p> <p>In addition this Cabinet Member may approve grants to voluntary organisations, up to £20,000 per annum.</p>

	<p><u>relation to all operational aspects of the library service.</u></p> <p>The distribution of all grants, except those relating to the adaptation of properties in the private sector, after consultation with appropriate portfolio holders.</p> <p>All matters relating to the provision of services under the Leisure Contract.</p> <p>Special responsibility for the New Support and Customer Service Organisation Project</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	
ENVIRONMENT	<p>To lead on budget and policy formulation and implementation in relation to the environment and transport.</p> <p>In particular, promoting the reputation of the London Borough of Barnet as an attractive environment and transport infrastructure designed to meet the needs of today and the challenges of the future.</p> <p>All matters relating to the development and management of the environment, including:</p> <ul style="list-style-type: none"> • the street scene including pavements and all classes of roads; • parking provision and enforcement; • road safety; • street lighting; • transport and transport initiatives; • refuse and recycling; • waste minimisation; • street cleaning; • waterways; • parks and open spaces; • trees (includes public highways, Council housing estates and in parks); • allotments; and • fleet management <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>
HOUSING	To lead on budget and policy	The general powers

	<p>formulation and implementation in relation to housing.</p> <p>In particular working with Barnet Homes, housing associations and other providers to secure the optimum provision and associated environmental and social facilities for all those members of the community not living in private accommodation, or for those who require public sector housing.</p> <p>Also to promote the better integration of privately rented properties into the Borough's framework, including the distribution of grants as necessary, for the adaptation of private properties, to enable choice and independence.</p> <p>All matters related to Housing excluding the administration of Housing Benefits.</p> <p>All matters related to Private Sector Housing, including Disabled Facility Grants, Hendon Cemetery and Crematorium and Finchley Mortuary.</p> <p>Special responsibility for The Barnet Group.</p> <p>All matters related to the development and implementation of the Housing Strategy (including homelessness)..</p> <p>Housing licensing and housing enforcement.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>
<p>PLANNING AND REGULATORY SERVICES</p>	<p>To lead on budget and policy formulation and implementation in relation to planning, development plans, building and property construction and environmental health.</p> <p>To develop for Council approval the Local Development Framework (LDF) and associated documents and, once approved, implement and maintain the LDF.</p> <p>To include all aspects of the development control service, building</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

	<p>control and the naming and numbering of streets and properties. In addition, to ensure that the Borough's Green Belt, greenspaces and Metropolitan Open Land is afforded the appropriate protection.</p> <p>Special Responsibility for the Development and Regulatory Services Project</p>	
PUBLIC HEALTH	<p>To lead on budget and policy formulation and implementation in relation to the emerging public health agenda.</p> <p>This includes the public health function and working in partnership with local and national NHS providers.</p> <p>Work with the Health and Well-Being Board as a vehicle of Leadership for the local health economy. Implement the Health and Well-Being Strategy.</p> <p>Championing the needs of Barnet in discussion with the health service to ensure the best possible outcome for the residents of Barnet.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>

4.3 Cabinet Members general powers may be summarised as;

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

6. To ensure the promotion of Equalities
7. To ensure that the Council's Safeguarding responsibilities are taken into account in the discharge of their responsibilities.

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

- involve something other than the implementation of a Service Plan or a decision previously taken by Council, Committee or Cabinet.
- are key decisions as defined in Article 13 of the Constitution.

Urgent (not emergency) decisions are defined as decisions that were not anticipated within the budget or Service Plans, but nevertheless relate to everyday business. Urgent decisions are not major changes/decisions outside the approved budget and statutory plans.

Cabinet Committees

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

4.6 The Cabinet Committees are:

Committee	Functions	Membership
Resources	<p>Capital and revenue finance, forecasting, monitoring, borrowing and taxation.</p> <p>To consider reports on treasury management strategy and activity, including creating and maintaining a Treasury Management Policy Statement.</p> <p>Grants to voluntary organisations above £20,000.</p> <p>Monitor the trading position of appropriate Council services, carry out debt analysis and look at income sources and charging policies.</p> <p>To write off debt.</p> <p>To determine external or cross-boundary trading limit.</p> <p>To agree exceptions to standing orders, all decisions relating to approved lists and agreed national registers, authorise post tender negotiations and accept tenders which are not the lowest.</p> <p>To agree externalisation contracts including any proposal to appoint external</p>	Cabinet Members are appointed by the Leader

	<p>cash investment managers.</p> <p>Approval of schemes not in service plans but not outside the Council's budget or policy framework.</p> <p>All matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.</p> <p>To develop and recommend to Cabinet for adoption an e-Government strategy and associated ICT policies and strategies.</p>	
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Cabinet

- 4.7 The Cabinet Meeting may discharge any executive functions whether or not they are also delegated to officers.
- 4.8 The following decisions are reserved to the Cabinet meeting:
- Considering an executive function delegated to an area environment sub-committee referred to it for a decision.
 - Considering policy initiatives, initiating new policy proposals and determining the way in which policy reviews will be carried out.
 - Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning
 - Determining responses to consultation documents on proposals which could result in the council having to provide a new service, discontinue an existing one or change service provision in such a way that there are budgetary implications.
 - Determining whether meetings relating to non-key decisions will be held in public or private.
 - Agreeing budget virements of up to £2.5m and applications of up to 50% of the latest estimated general fund or housing revenue account balances and to make recommendations to Council on virements over these amounts and those over £250,000 where the amount is more than 10% of the net service directorate budget.
 - Considering recommendations made to them by overview and scrutiny committees.
 - To adopt, or recommend to Council for adoption, a plan or strategy reserved to Cabinet as listed below, or the Council's budget and virement limits.
 - Responsibility for preparing the byelaws and recommending them to the Council for decision (Executive functions only).

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

- 4.9 Strategy Framework

Plans and Strategies – For Cabinet Decision

- Business Planning (Budget and Medium Term Financial Strategy) (*for recommendation to Council for adoption*)
- Development Plan Documents comprising the Local Plan (*for recommendation to Council for adoption*)
- Corporate Plan
- Children and Young People Plan
- Housing Strategy (incorporating the Homelessness Strategy)
- Regeneration Strategy
- Neighbourhood Plans (adoption and/or revocation Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders) (*for recommendation to Council for adoption*)
- Approve annually the following strategic documents of The Barnet Group LTD: Budget; Business Plan; and Annual Report.
- London Transport Strategy (Local Implementation Plan)
- Safeguarding Annual Report (for recommendation to Council for adoption- though not a statutory requirement)

Strategy – For Health and Well Being Board Decision

- Health and Well Being Strategy

Statutory Framework Documents – For Council Decision

- Business Planning (Budget and Medium Term Financial Strategy)
- Safer Communities Strategy
- Sustainable Community Strategy
- Development Plan Documents comprising the Local Plan
- Adoption of Neighbourhood Development Plans, Neighbourhood Development Orders and Community Right to Build Orders
- Statement of Licensing Policy (under the Licensing Act 2003)
- Statement of Gambling Licensing Policy (under the Gambling Act 2005)

Non-Statutory Plans and Strategies – For Cabinet Member Approval

- Sub-strategy of the Corporate Plan:
 - People Strategy
- Sub-strategies of the Children and Young People Plan:
 - Education Strategy
 - Inclusion Strategy
 - Early Intervention and Prevention
 - Child Poverty
- Sub-strategies of the Health and Well Being Strategy:
 - Prevention Strategy
 - Independence Strategy
- Sub-strategies of the Safer Communities Strategy:
 - Substance Misuse Strategy
- Sub-strategies of the Regeneration Strategy:
 - Housing Strategy (if not required to be agreed by Cabinet)
 - Skills Enterprise and Employment Action Plan

AREA ENVIRONMENT SUB-COMMITTEES

4.10 Area Environment Sub-Committees, as well as discharging Council functions (see Part 3, Section 2 – Responsibility for Council Functions), perform functions that are the responsibility of the Executive as set out below:

- To discharge the Executive’s functions, within the boundaries of their areas, in accordance with council policy and within budget, apart from matters which are the responsibility of the Licensing Committee or Licensing Sub-Committee or matters which are of significance to the whole borough or crossing sub-committee boundaries as set out in Article 10 of the Constitution that relate to:
- Highways use and regulation not the responsibility of the Council
- Town centre regeneration and management, including the operation of council markets
- Private sewers, drains, public conveniences, land drainage and water courses
- Refuse collection, cleansing, litter, waste and recycling
- Day-to-day promotion, management and development of:
 - parks, open spaces, allotments, recreation and leisure facilities;
 - libraries, museums, arts and tourism facilities.
- Local nature reserves, sites of special scientific interest and other controlled areas
- Day-to-day environmental issues and management of land on council housing estates
- Cemeteries and crematoria
- Making recommendation to Cabinet on the designation of conservation areas

5. LIMITATIONS ON DELEGATION TO COUNCIL COMMITTEES AND SUB-COMMITTEES

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

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

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

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

6. MEMBERS’ RIGHTS TO REFER MATTERS TO PARENT BODY

- 6.1 Any committee listed in the following schedule may decide to report on any matter to Council and any sub-committee may report to its parent committee. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions.
- 6.2 A chairman of an area sub-committee may refer the sub-committee's recommendations up to the parent committee.
- 6.3 A specified number of members of a committee or sub-committee (see the table below) may require that a matter on which the committee or sub-committee had proposed to take action is referred up to the next meeting of the Council or the parent committee to which the committee or sub-committee would ordinarily report, subject to the exceptions set out in 6.5, 6.6 and 6.7 below.
- 6.4 In such a case:-
- 6.4.1 for committees, the action the committee had proposed to take will be recommended to the Council;
 - 6.4.2 for sub-committees, the action the sub-committee had proposed to take will be recommended to the committee;
 - 6.4.3 no action shall be taken on the matter in the meantime.
- 6.5 The first exception is that no matter that has been the subject of a decision by the Council or, in the case of sub-committees, the parent committee in the previous six months may be referred up.
- 6.6 The second exception is Area Planning Sub-Committees, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning and the control of buildings and new streets may be referred up.
- 6.7 The third exception is the Planning and Environment Committee, no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning may be referred up to the Council meeting.
- 6.8 The fourth exception is the Pension Fund Committee.

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

9.9 Where area environment sub-committees are discharging executive functions a reference up can only be to the Executive.

6.10 This provision shall not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committees, Overview and Scrutiny Committees and Chief Officers Appointments, Investigating and Disciplinary Panels.

7. POWERS DELEGATED TO OFFICERS

General Powers

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

- to discharge the functions allocated to them or dealt with by them or their staff, except for matters specifically reserved to Executive Members, Cabinet meeting, Cabinet Committees, Committees or Council;
- in all matters where they have managerial or professional authority;
- to authorise and accept quotations for contracts to the limits placed on Chief Officers by Contract Procedure Rules for approved schemes with sufficient estimate provision;
- to agree settlements of up to £1,000 subject to budget and audit trails;
- to agree financial settlement where recommended by the Ombudsman or a Court;
- without exception, in cases of emergency. This covers emergency decisions that were not anticipated within the budget or Service Plans but nevertheless relate to everyday business, not major changes/decisions outside the approved budget and statutory plans listed under paragraph 3.8 as being for decision by Council or Cabinet.

Explanatory Note

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

Explanatory Note – Officers to deputise

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

- 7.3 They may use whatever means they consider appropriate to discharge those functions, including:
- incurring expenditure and collecting income;
 - engaging and deploying staff;
 - deploying other resources within their control;
 - placing contracts and procuring other resources within or outside the Council.
- 7.4 Besides having delegated powers to deal with executive matters, specific chief officers have powers to deal with regulation, licensing enforcement, staffing and other statutory matters which are functions for which the Council is responsible, or for which the Council, acting as Licensing Authority, is responsible. These powers must be set out in the Directorate Scheme of Delegation to Officers.

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

Recording of delegated powers to Officers

- 7.6 Formal reporting of officer decisions will take place if actions or decisions involve the following –
- Specific statutory powers
 - The service of formal notice
 - The incurring of expenditure of £1000 or more,
 - The fixing of fees and charges to be levied by the Council
 - Authorisations and acceptances in accordance with the Contract Procedure Rules
 - Land or property transactions
 - The exercise of specific powers pertaining to finance, borrowing and investments
 - The issue or defence of legal proceedings
 - Or taking other actions or decisions that are significant in the context of service delivery and/or organisation or upon individuals, external bodies or the public
- 7.7 Recording/publishing of most decisions will be in summary form and will set out the principal matters that are relevant to the decision. Detailed reporting/publishing of individual decisions (Delegated Powers Report) will be by way of exception and only when there is a clear need to do so.
- 7.8 Where formal reporting is not required, the officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate. Each Directorate will keep its own central record of all delegated decisions. Proper administrative decision making requires that: -

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

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

Specific Powers

7.10 In addition, in consultation with the Cabinet member concerned:

- Directors have the power to agree revenue virements for sums in excess of £50,000 and up to £250,000 between service directorates and employee and non-employee expenditure.

Details of the Scheme of Revenue and Capital Virements can be found in Part 4 – Financial Regulations.

7.11 The Head of Paid Service is responsible for forming, varying and ending of contracts of employment for Officers below Chief Officer.

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

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

The only exception to these Specific Powers is where:

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

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

7.12 The Chief Finance Officer has the powers set out in the Financial Standing Orders and in particular:

- To agree to revenue or capital expenditure not provided for within the control budget being incurred if the Chief Finance Officer is satisfied that it is wholly

reimbursable to the Council, or compensatory savings have been identified. In all circumstances the expenditure must be consistent with Service Plans.

- To take the most appropriate form of borrowing from the approved sources and to make the most appropriate form of investments in approved instruments.
- Subject to details being incorporated in the next available budget a report being submitted to Cabinet Resources Committee on the action taken, to write off individual debt amounts of up to and including £5,000 (including cancellations of penalty charge notices or any other sums due to the Council), in consultation with the Head of Legal Practice – HB Law.

7.13 The following Officers also have the powers indicated:

- the Chief Finance Officer to have responsibilities as set out in Pension Fund Governance Compliance Statement.
- the Section 151 Officer in consultation with the Cabinet Member for Resources to make decisions about:
 - Entering into new leases with a consideration between £25,000 and £50,000 per annum where the council is granting the lease at best consideration in accordance with the Local Government Act 1972.
 - Acquisitions of land whether freehold or leasehold where the cost of the interest being acquired is between £20,000 and £30,000 per annum or as a one off consideration
- The Chief Finance Officer), in consultation with the Head of Legal Practice - HB Law, to make decisions about:
 - Occupational and works Licences
 - Easements
 - Rent Reviews and Licences to Assign.
 - Lease renewals where this represents best consideration in accordance with the Local Government Act 1972.
 - Entering into new leases of less than 21 years, where the consideration is less than £25,000 per annum and at best consideration in accordance with the Local Government Act 1972, where the Council is granting the lease.
 - Acquisitions of land, whether freehold or leasehold, for less than £10,000 per annum or as a one off consideration
 - To respond to statutory notifications by Foundation Schools on proposals to dispose of surplus land (see all Disposal of land and real property rules)
- The Director for Place to make decisions about:
 - (i) The acquisition of properties under the private sector leasing scheme, for £20,800 per annum or less or as a one off consideration; and
 - (ii) The Director for Place shall have authority to sign the private sector leases as detailed at (i) above
 - All disposals of freehold interests and leases where a capital premium is obtained for the interest will be agreed by Cabinet Resources Committee.

7.14 The Director of Children's Services shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in child

protection and care cases and the Adults and Communities Director shall have powers to take all necessary action to ensure that the Council's duties are properly and effectively discharged in adult protection and care cases.

Restrictions and Conditions

- 7.15 Directors and Chief Officers will not take decisions that are reserved to another decision making body under this constitution, and in particular
- they will only take Key Decisions as defined in Article 13 of the Constitution, or which do not involve the implementation of an annual Service Plan or a decision previously taken by Council, Committee or Cabinet, if it is impractical for the relevant Executive Member to do so;
 - they will only take decisions that are reserved to Council or Cabinet under this Constitution in an emergency and if it is lawful for them to do so.
- 7.16 When exercising delegated powers officers must act within the law and the Council's constitution, and follow Council policy (including the Statement of Licensing Policy) and the lawful instructions of Council Committees, Licensing Authority Committees, and the Executive. If exceptionally they need to depart from Council policy or those instructions, they must report to the relevant body as soon as possible.
- 7.17 Key decisions taken by officers will be published and recorded in accordance with the Access to Information Procedure Rules. Other decisions taken by officers must be recorded and made available to members of the Council either as individual or summary decisions published on the Internet or as a performance indicator reported to an Overview and Scrutiny Committee,
- 7.18 They may authorise other officers to exercise these powers in practice, but they are taken in their name and they remain their responsibility.
- 7.19 Emergency action taken under delegated powers must be reported to the relevant body as soon as possible.

8 JOINT ARRANGEMENTS

The following are the joint arrangements for the discharge of functions which are the responsibility of the Executive:

- London Boroughs Grants Scheme under Section 48 Local Government Act 1985.
- Transport Committee for London agreement dated 15 January 1998.
- Association of London Government agreement dated 1 April 2000.

Pension Fund Compliance Statement

Pension Fund Governance Compliance Statement

1. Background

- 1.1 The Local Government Pension Scheme (Amendment) (No.3) Regulations 2007 require that all LGPS pension fund Administering Bodies in England and Wales prepare a Governance Compliance Statement (GCS). This GCS has been prepared in full accordance with these regulations and any guidance provided by the Secretary of State.
- 1.2 In order to ensure that the Council meets its fiduciary duties with regard to its Pension Fund, it is important governance arrangements assign roles and responsibilities that are consistent with political and organisational accountability. This GCS seeks to do this by defining three tiers of responsibilities – the Council, the Pension Fund Committee (PFC) and the Chief Finance Officer. It draws on best practice in other pension funds and guidance provided by the Secretary of State.
- 1.3 As this Pensions Fund Committee will now be a Committee of the Council the normal provisions relating to publication of agendas, admission of press and public to meetings etc will apply

2. Statement of Responsibilities

2.1 Responsibilities of Council in relation to the Pension Fund

- 2.1.1 To appoint:-

Option 2
<ul style="list-style-type: none">• <i>Six elected members on a non-politically-balanced basis to a Pension Fund Committee (PFC), responsible for discharging the Council's leadership and strategic management responsibilities regarding its Pension Fund;</i>• <i>substitute members, two from each political group.</i>

In accordance with Council policy, it is proposed that each Political Group has two substitute Members. Furthermore, in line with their responsibilities, only elected members (or their substitutes where appropriate) appointed to the PFC have voting rights at any PFC meeting.

2.2 Responsibilities delegated by Council to the Pension Fund Committee

- 2.2.1 To approve and act in accordance with statutory Pension Fund documents:-

- Statement of Investment Principles
- Funding Strategy Statement
- Governance Policy Statement
- Pension Administration Strategy
- Communication Policy Statement

- 2.2.2 To review the above documents at least triennially, or more frequently if advised by the Chief Finance Officer of the need to do so (e.g. change in statutory guidance on what these documents should cover).
- 2.2.3 To receive and approve the Pension Fund Annual Report.
- 2.2.4 To invite a recognised representative from the trades unions and a representative from Middlesex University (the largest scheduled/admitted body) to meetings of the PFC. These representatives are appointed to advise the PFC on behalf of the interests they represent, but are not to have any voting rights. Further invites to scheduled/admitted bodies to be decided by the chairman of the PFC.
- 2.2.5 To appoint independent investment advisors.
- 2.2.6 To appoint Pension Fund investment managers.
- 2.2.7 To appoint Pension Fund actuaries.
- 2.2.8 To appoint a performance management company.
- 2.2.9 To appoint custodians.
- 2.2.10 To review and challenge at least quarterly the Pension Fund investment managers' performance against the Statement of Investment Principles in general and investment performance benchmarks and targets in particular. One of these meetings to be the annual review, at which the representative from our performance management organisation attends to comment on the relative performance of the fund managers.
- 2.2.11 To consider actuarial valuations and their impact on the Pension Fund.
- 2.2.12 To consider advice given by the Chief Finance Officer, independent advisors, and views expressed by non-voting representatives at Pension Fund Committee meetings.
- 2.2.13 To approve applications from organisations wishing to become admitted bodies into the Pension Fund where legislation provides for discretion, including the requirements for bonds.
- 2.2.14 To determine the appropriate course of action on any matter not specifically listed above that pertains to the leadership and/or strategic management of the Pension Fund, in particular any matter which could materially affect its financial performance or long-term standing.
- 2.2.15 To convene regularly each quarter and additionally at such times outside the regular quarterly cycle as the Chairman deems appropriate
- 2.2.16 To require that all voting members receive adequate training on matters relating to the operation of the LGPS to enable the PFC to fulfil its fiduciary responsibilities in a satisfactory manner.
- 2.2.17 To comply with all the Procedure Rules for Council Committees and Sub-Committees, as set out in Part 4, Section 2 of the Council's Constitution with the

exception of paragraph 15(4) of the explanatory note and paragraph 5.3 of the extract of Part 3 of the Constitution [exclusion of ability of minority of members to move recommendations to Council].

2.2.18 To conduct its business only when the number of voting members in attendance reaches or exceeds a quorum of 3.

2.3 Responsibilities Delegated to the Chief Finance Officer

2.3.1 To implement the decisions of the PFC efficiently and effectively.

2.3.2 To administer the Pension Fund within the parameters set by the PFC, delegating these responsibilities as appropriate to other council officers and/or external contractors.

2.3.3 To advise the PFC on all matters pertaining to the management of the Pension Fund, drawing upon the knowledge and expertise of other council officers, the independent advisor, the actuaries and other sources where appropriate.

2.3.4 To attend PFC meetings, ensuring an appropriate substitute is sent where attendance is not possible.

2.3.5 To require other relevant individuals to attend PFC meetings where appropriate.

2.3.6 To require the Fund's independent advisor to present a report each quarter to the PFC on the key and emerging issues that will or could affect the Pension Fund's future performance and standing

2.3.7 To organise adequate training to enable members of the PFC to be in a position meet their fiduciary responsibilities in relation to the Pension Fund.

2.3.8 To request that the Chairman convene additional meetings where a matter arises that requires its urgent consideration.

2.3.9 To prepare and submit the following Pension Fund documents for approval to the PFC on either triennially or more frequently than this should circumstances require:-

- Pension Fund Annual Report
- Statement of Investment Principles
- Funding Strategy Statement
- Governance Policy Statement
- Pension Administration Strategy
- Communication Policy Statement

2.3.10 To publish the documents stated in 2.3.9, upon their approval by the PFC, in a timely, accessible and cost-effective manner.

2.3.11 To make available to scheme representatives, scheme members and any other interested bodies, upon request, any other information pertaining to the London

Borough of Barnet Pension Fund where this is not covered by exemptions provided by Acts of Parliament.

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APPENDIX K

Section 1 – The Council

Types of meetings

1. ANNUAL MEETINGS OF THE COUNCIL

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. The matters to be considered at the Annual Meeting shall be

- (a) Electing a Mayor and appointing a Deputy Mayor
- (b) Approve the minutes of the last meeting;
- (c) Receive official announcements;
- (d) Electing the Executive Leader of the Council for the ensuing four year period
- (e) Receive a report from the Leader on the appointment of the Deputy Leader and other Members of the Executive
- (f) Receive a report from the Leader about the delegation of executive functions
- (g) Noting the appointment as Leader of the Opposition of the Leader of the largest political group other than the group of which the Leader of the Council is a member;
- (h) Appointing the Chairman and membership of Committee, Overview and Scrutiny Committees and other regulatory bodies and approving their respective terms of reference
- (i) Appointing representatives to Outside Bodies unless the appointment is an Executive function or has been delegated by the Council
- (k) Agree the Council Calendar of meetings
- (l) Reports from other Committees and Officers as required to in the proper discharge of functions delegated by Council

2. ORDINARY MEETINGS

2.1 The matters to be considered at an Ordinary Council meeting shall be;

Part 1 - Statutory formalities/Announcements (15 minutes)

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

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

7. Questions to the Leader and Cabinet

Part 3 – Business for Debate (90 minutes)

8. Business items in the order in which notice has been given

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

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

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

Matters proposed by the other political groups,

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

(Break – 15 minutes)

11. **Non-Executive Business Item (30 minutes)**

Matters proposed by non-Executive Members..

If there is more than one business item for debate and in the absence of an agreement between the non-Executive Members, Council will decide the item of business for debate.

Part 4 - Statutory Council Business (30 minutes)

12. Petitions for Debate (20 minutes). A petition organiser (up to 5 minutes) and Members responding (up to 15 minutes)
13. Reports from Cabinet
14. Reports from Overview and Scrutiny Committees
15. Reports from other Council Committees
16. Reports of Officers
17. Questions to Council Representatives on Outside Bodies

3. EXTRAORDINARY MEETINGS

- 3.1 The Mayor may call an Extraordinary Meeting of the Council at any time
- 3.2 Five Members of the Council may also request the Mayor to call an Extraordinary Meeting. The meeting must be called within seven days of the notice being present to the Mayor, although there is no time limit by which the meeting must take place.
- 3.3 If the Mayor refuses, or does not call the meeting within seven days, any five Members may themselves call an Extraordinary Meeting.
- 3.4 The only business permitted at an extraordinary meeting is that which appears in the summons.

4. BUDGET COUNCIL MEETINGS

- 4.1 The Council shall hold a Budget meeting at time, date and place fixed by the Council to approve the budget and Council Tax for the ensuing financial year. Only Parts 1 (Statutory Formalities/Announcements) and 4 (Statutory Council Business) will apply to the Budget meeting.

5. ROLE OF MAYOR.

- 5.1 At the meeting of the Council, the Mayor, if present shall preside.
- 5.2 If the Mayor is absent from a meeting of the Council then the person appointed by the Mayor as Deputy Mayor shall preside.
- 5.3 If the Mayor or Deputy Mayor are absent from the meeting of the Council, another Councillor chosen by the Councillors present shall preside.
- 5.4 The ruling of the Mayor or person presiding at the meeting concerning the interpretation or application of these standing orders shall not be challenged at any meeting of the Council.

9. VARIATION

The following order of business may not be changed:

- 9.1 To deal with any business required by statute to be done before any other business

The order of any other business may be varied:

- 9.2 By the Mayor at his or her discretion either at or before the meeting; or
- 9.3 By a Business Item put forward, seconded, and carried without discussion, by a majority of members at the meeting. No written notice of the Business Item is required.

10. SUSPENSION OF STANDING ORDERS

The Council at any of its meetings may suspend any standing order provided that:

- 10.1 Either due notice has been given, or Council agrees that it is a case of urgency, and
- 10.2 The Business Item to suspend a standing order is moved, seconded and carried without discussion by a majority of the members of the Council present and voting.

RULES THAT APPLY TO THE WHOLE OF ALL COUNCIL MEETINGS

11. VALIDITY OF BUSINESS ITEMS, AMENDMENTS AND QUESTIONS

- 11.1 Every Business Item, amendment and question shall be relevant to matters within the Council's powers or duties or which affect the borough. The Mayor shall, if need be, give a ruling as to whether the Business Item is relevant.
- 11.2 If the Head of Governance has any doubts about any Business Item, amendment or question for the agenda for reasons of propriety, he or she may refer it to the Mayor.
- 11.3 If the Mayor considers the Business Item, amendment or question to be vexatious,

irrelevant, or otherwise improper, the Head of Governance will return it to the Member who submitted it. The Head of Governance will explain to the Member in writing why it will not be included on the agenda circulated for the meeting.

12. GENERAL PROVISIONS FOR BUSINESS ITEMS AND AMENDMENTS

An amendment must be relevant to a Business Item on the agenda and shall be to either:

- 12.1 refer a subject of debate to a committee for consideration or re-consideration; or
- 12.2 change the words (including deleting or adding words) but such changes must not merely have the effect of negating the Business Item before the Council (i.e. ...'to delete all words after Council and replace with')
- 12.3 No member may submit more than one amendment to a particular Business Item or report on the agenda.
- 12.4 If requested by the Mayor, the mover of a Business Item or amendment shall put it in writing and hand it to the Mayor before it is discussed or put to the vote. This standing order does not apply to Business Items or amendments where notice has been given in accordance with these standing orders

13. ALTERATIONS TO BUSINESS ITEMS OR AMENDMENTS

- 13.1 A Member may amend a Business Item in their name by submitting the amendment in writing to the Head of Governance by 10.30am the day before the meeting.
- 13.2 After the deadline referred to at 13.1 above, a Member may only move an amendment to a Business Item in their name orally from the floor.

14. WITHDRAWAL OF BUSINESS ITEMS AND AMENDMENTS

- 14.1 The Member who has submitted a Business Item can withdraw the item prior to its consideration.

15. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

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

- 15.1 appoint a Chairman of the meeting;
- 15.2 question the accuracy of the minutes;
- 15.3 move that an item of business in the summons takes precedence;
- 15.4 appoint a committee (including its members, a Chairman and Vice-Chairman and members having related specified duties);
- 15.5 agree to hear oral representations;
- 15.6 give leave to withdraw a Business Item;
- 15.7 extend the time limit for speeches;
- 15.8 move that "the question be now put" (to the vote);
- 15.9 move that "the debate be now adjourned";

- 15.10 move that "the Council do now adjourn";
- 15.21 exclude or to re-admit the press and public under section 100A(4) of the Local Government Act 1972;
- 15.22 move that a member be not further heard;
- 15.23 deal in public with a staff matter;
- 15.24 give consent of the Council where consent is required by these standing orders;
- 15.25 grant urgent action powers.

16 BUSINESS ITEMS WHICH MAY BE MOVED DURING DEBATE AND CLOSURE BUSINESS ITEMS

When a Business Item is under debate no other Business Item shall be moved except:

- 16.1 To amend the Business Item;
- 16.2 Motion moved by the Mayor or another member that a member:
 - (a) "be not further heard";
 - (b) "must leave the meeting";
- 16.3 Motion to exclude the press and public
- 16.4 Closure Business Items as follows:
 - A member may move without comment, at the conclusion of a speech of another member;
 - (c) "That the question be now put";
 - (d) "That the debate be now adjourned"; or
 - (e) "That the Council do now adjourn".

If the motion is seconded, the Mayor shall put the motion to the vote without further discussion.

- 16.5 If the Council agree "that the question be now put", the mover of the Business Item will retain his or her right of reply before the Business Item is put to the vote.

18 DIVISION AND VOTING

18.1 Division bell

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

19. VOTING

- 19.1 All Business Items and amendments shall be determined by a show of hands except where otherwise provided by law or in these standing orders. However, the Mayor may use his/her discretion if the feeling of the meeting is clear, subject to any Member of the Council being able to request a formal vote.
- 19.2 Members must be seated in the Chamber when voting and while the vote is being recorded.

20 MEMBER'S DISSENT

- 20.1 If, immediately after a vote is taken, a member requests his or her vote to be recorded, the Head of Governance will record in the minutes whether that member:
- (a) cast his or her vote for or against the question; or
 - (b) abstained from voting.

21 DIVISION

- 21.1 If following a vote, ten members rise in their place and demand a formal division, the Head of Governance shall call over the names of all the members, and record and enter in the minutes those:
- (a) voting for or against the Business Item or amendment;
 - (b) abstaining from voting; and
 - (c) absent from the meeting when the division was taken.
- 21.2 The voting at the division shall take the place of the voting indicated by a show of hands.

22. VOTING ON APPOINTMENTS

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

23. QUESTION TIME

- 25.1 In part 2 of the meeting the Leader of the Council and other members of the Cabinet will answer questions from any member of the Council. In the absence of the appropriate member of the Cabinet the question may be answered by another Cabinet member. The Head of Governance will consult the Cabinet on which Cabinet member questions should be referred to.
- 25.2 Questions will be put to the appropriate Cabinet member in the order in which they are received by the Head of Governance, except that questions shall be ordered so that a question from one political group is followed by a question from another group until all groups have placed one question each. This sequence shall be maintained until all questions have been dealt with or the time limit for question time is reached.
- 25.3 Any Member wishing to ask a question must deliver by e-mail, to be received by the Head of Governance by 10.30am ten working days before the day of the meeting.
- 25.4 The Head of Governance shall keep a register recording the date and time the question was received. Any member of the Council may inspect the record.
- 25.5 The Leader/Cabinet Member may agree to answer a question of which notice has not been given, if it relates to urgent business and has been discussed with him/her before the meeting.
- 25.6 All questions must relate to the Council's powers or duties or matters that affect the borough or its residents.

- 25.8 Every question shall be put and answered without discussion.
- 25.9 An answer will take the form of a written reply circulated two working days before the meeting but the Mayor may allow an oral elaboration from the appropriate Cabinet member. In the absence of the appropriate Cabinet member an oral elaboration may be allowed from another member of the Cabinet.
- 25.10 One supplementary question and answer will be allowed on the same subject from the same members.
- 25.11 The time allowed for questions will be 30 minutes. At the end of that time the Mayor will allow an oral reply to a supplementary question commenced before the expiry of the time limit and then bring this part of the meeting to a close. The Mayor has the right to prevent any member asking or giving a protracted supplementary question or answer.

GENERAL RULES THAT APPLY TO PART 3 & 4 OF THE MEETING

26. Rules of Debate

- 26.1 The rules of debate at the meeting are as follows:
- 26.2 Each Business Item will be dealt with in turn in the order set out on the agenda. The Business Item need not be seconded. The Member moving the Business Item, or another member of that group, will open the debate. The Leader of each of the other groups, or another member of their group, will then have an opportunity to comment. and at the end of the time allowed the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches.
- 26.3 For reports of the Cabinet, (except for Budget & Council Tax) Committees and Overview and Scrutiny Committees, the Leader/Chairman of the relevant committee, or another member of the Cabinet/Committee, will move reception of the report and adoption of the recommendations. This report need not be seconded. The leader of each of the other groups, or another member of their group, will then have an opportunity to comment on the recommendation, and at the end of the time allowed the Mayor will bring this part of the debate to an end, whether or not all those entitled have spoken or completed their speeches
- 26.3 Amendments may be moved by those speaking in the first part of the debate. The Mayor will then invite other Members to move amendments. After all the amendments have been debated the Business Item will be debated. Then the Member who opened the debate, or his/her nominee, has the right to respond.
- 26.4 At the end of debate the Mayor will put each amendment to the vote in turn. If an amendment is carried it alters the substantive Business Item.
- 26.5 The Mayor will then put the item to the vote.

27. Time For Debate

- 27.1 The time allowed will be set out in the timetable. Each of the first three speakers under Rule 33.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes. At the end of that period of time the Mayor will bring that part of the meeting to a close, whether or not every member wishing or entitled to speak is speaking or has spoken, and whether or not all the business for that part of the meeting has been dealt with. The Mayor will then put the remaining items of business

for that part of the meeting to the meeting in turn, and the Council will decide and if necessary vote on each of them without debate.

- 27.2 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment, Business Item or recommendation be put to the vote without further debate, or that the order of business be varied. This Business Item from the Mayor need not be seconded, and will be immediately put to the vote without debate.
- 27.3 The mover of an original Business Item shall have a right of reply at the close of the debate on the Business Item, immediately before it is put to the vote. If an amendment is moved, the mover of the original Business Item also has a right of reply at the close of the debate on each amendment, but must not otherwise speak on the amendment. At the end of the debate, the Mayor will call on the original mover of the Business Item to exercise his or her final right to reply.

28.1. Administration and Opposition Business Items

- 28.2 Business Items must consist of comments or requests addressed to the Executive. They must address broad policy issues and relate to the Council's powers or duties or matters that affect the Borough or its residents.
- 28.3 Business Items may not promote a policy initiative which has been rejected, or negate a policy initiative that has been agreed by Council or the Executive in the six months before the meeting.

29. Non-Executive Business Items

- 29.1 Any Member may put a Business Item on the agenda for an ordinary meeting of the Council, except the meeting that deals with the Budget and Council Tax. The Member must give written notice to the Head of Governance at least six clear working days before the meeting. Any Business Item delivered after 4pm will be recorded as received on the next working day. The Business Item must be signed by the member and sent by email by the Member or his/her group's political assistant or Group Secretary.
- 29.2 The Head of Governance shall keep a record of the date the notice was received and any member of the Council may inspect the record.
- 29.3 The Head of Governance shall set out in the summons for the meeting all Business Items in order of receipt.
- 29.4 Once the Business Item is on the agenda, any Member may move the Business Item at the meeting. If the Business Item is not moved it shall be treated as withdrawn, unless the Council agrees to postpone it.
- 29.5 If the Member's Business Item is not dealt with by the end of the meeting, it will be referred to the Cabinet or an appropriate Council Committee or sub-Committee for consideration and any necessary action. (However, if the proposer has specifically

asked in his or her notice for the Business Item to be voted on at that Council meeting it will be voted on without discussion).

- 29.6 A Member who has a Business Item on the agenda may submit a further Business Item by 10.30am on the last working day before the meeting asking for the Business Item to be withdrawn and referred to the Cabinet or an appropriate council committee. The member must sign the Business Item and deliver it to the Head of Governance by hand, post, fax or e-mail.

RULES THAT APPLY TO PART 4 OF THE MEETING

31. Questions on Cabinet/committee reports

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

32. Questions to Council representatives on Outside Bodies

- 32.1 At an ordinary meeting, a member, who has given 21 clear working days written notice to the Head of Governance, may ask any question about the activities of a company or outside body to any member or officer who has been appointed or nominated to the outside body.

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

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

- 32.3 An answer may take the form of:

- (a) an oral or written answer (officers will invariably give written answers); or
- (b) a reference to a Council publication; or
- (c) a holding reply where it is not possible to give an immediate response. A written response must be circulated to members when the information is available.

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

- 32.5 Questions and answers will be recorded.

33. Procedure for Cabinet's budget report

- 33.1 The Leader, or in his/her absence any other member of the Cabinet, must move a Business Item for the report to be received. The mover may speak for five minutes.

- 33.2 If the Business Item is approved, the recommendations in the report shall be moved for reception by each page number being called out.

- 33.4 The Chairman of the Budget and Performance Overview and Scrutiny Committee may speak for five minutes.

- 47.4 If a member has submitted notice of an amendment on a particular item, the Mayor will invite him or her, or another member, to move the amendment. If the amendment is seconded, the mover of the amendment may speak for five minutes when moving the amendment. His or her seconder may also speak for four minutes or, on request, later in the debate. If the amendment is not moved, it shall be treated as having been withdrawn.
- 47.5 Only one amendment may be moved, discussed and voted on at any one time.
- 47.6 After all the amendments to the report have been dealt with in this way, the whole report shall be moved for adoption, subject to any amendments agreed at the meeting. The Business Item must be seconded and voted on without further discussion.

APPENDIX L

Section 2 – Meetings Procedures

NOTE ON THE CONDUCT OF LICENSING HEARINGS

Notwithstanding the following procedure rules for Council Committees and Sub-Committees, all hearings relating to the Authority's functions under the Licensing Act 2003, will be conducted within the framework and requirements of the Hearings Regulations made by the Secretary of State under that Act.

PROCEDURE RULES FOR COUNCIL COMMITTEES & SUB-COMMITTEES

1. Membership and Quorum

- 1.1 The following table outlines Committee and Sub-Committee Membership arrangements:

Committee	Membership	Substitute Members	Quorum
Planning and Environment Committee	10	10 (excluding Cabinet Members, and reflecting the political structure of the Council.) See Rule 2.7	3
Area Planning Sub-Committees:			
East Area	10	10 (one substitute for each ward)	3
West Area	11	11 (one substitute for each ward)	3
Environment Sub-Committees			
Finchley and Golders Green	7	7 (one per ward and one substitute for each ward)	3
Chipping Barnet	7	7 (one per ward and one substitute for each ward)	3
Hendon	7	7 (one per ward and one substitute for	3

		each ward)	
Licensing Committee	10	Not applicable	3
Constitution, Ethics and Probity Committee	10	6 (2 for each political group)	3
Licensing Sub-Committee	3	All other members of the Licensing committee	All three Members must be present for the meeting to proceed
Audit	7	3 (1 for each political group)	3
Remuneration Committee	5	3 (1 for each political group)	3
Business Management, Budget & Performance and Health Overview and Scrutiny Committees	10	6 (2 for each political group)	3
Safeguarding Overview and Scrutiny Committee	11	6 (2 for each political group)	3
General Functions Committee	7	6 (2 for each political group)	3
Pension Fund Committee	6	6 (2 for each political group)	3
Health and Well-being Board	10	3 (1 for each elected Councillor)	3 This must include at least one elected Councillor

2. Substitute Members – Rules

- 2.1 A substitute Member may only attend, speak or vote at a meeting in place of a committee member from the same political group who is unable to attend the meeting. If a meeting is adjourned, the substitution will carry forward into any subsequent adjourned meetings to consider the outstanding item(s).
- 2.2 Details of membership substitutions or apologies for absence will be detailed in the formal record of the meeting.

3. Quorum – Rules

- 3.1 If a committee or sub-committee is inquorate, it cannot transact any business. If there is no quorum at the time the meeting is due to begin, the start of the meeting will be delayed for up to 15 minutes. When 15 minutes have elapsed, the Head of Governance will count the number of Members present and if there is no quorum, s/he will advise the meeting that no business can be transacted and the meeting will be cancelled.
- 3.2 If the Chairman finds that a quorum of Members is not present at any time during the meeting, the Chairman must adjourn the meeting until such time as a quorum is returned.

4. Chairman of Meetings

- 4.1 If the Chairman is absent from a meeting the Vice-Chairman will take the Chair. If both are absent, the Head of Governance (or their representative) will open the meeting and he/she will seek nominations for the position of Chairman. A Chairman must be elected for the business of the meeting to be transacted. Where more than two persons are nominated for any position to be filled by the committee and there is no majority of votes in favour of one person, the name of the person having the least number of votes shall be deleted from the list. Further votes will then be taken on the same basis until a majority of votes is given in favour of one person.
- 4.2 The Chairman will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided s/he has voted when the motion or amendment was first put to the vote.
- 4.3 In exceptional circumstances, the Chairman may change the date of any meeting, cancel or postpone any meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee.

5. Minutes

- 5.1 The confirmation of the minutes of previous meetings must be the first item of business at the meeting, except when there is a need to elect a Chairman.
- 5.2 Minutes can only be amended to correct factual inaccuracy in the record, and not to make any retrospective amendment to the decisions made. Any questions upon their accuracy shall be raised by motion and voted on without discussion. The meeting will not proceed further until the minutes are approved, either amended or unamended. Upon approval as a correct record, the Chairman shall sign the minutes.

Members' Rights

6. Members' Items for the Agenda

- 6.1 A Member (including appointed substitute Members) will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a committee or sub-committee on which s/he serves. This Standing Order does not apply to the Licensing Committee and Licensing Sub-Committees. .
- 6.2 Members' Items must be relevant to the terms of reference of the body which will consider the item.
- 6.3 The Head of Governance must receive written notice of a Member's item, at least seven clear working days before the meeting. Any item received after 5pm will be recorded as received on the next working day. Items received after that time will only be dealt with at the meeting if the Chairman agrees they are urgent.

7. Councillors' rights to attend and speak at committees or sub-committees when they are not a member

- 7.1 Councillors may attend any council committee or sub-committee, even when they are not appointed to them, but they cannot vote. They may attend all parts of the meeting, whether or not the committee has excluded the press and public.
- 7.2 Where a Councillor is not a member of the committee or sub-committee, s/he should sit in the public gallery so that it is clear to the public that the Member is not part of the body taking decisions.

- 7.3 Where a Councillor has a right to attend a committee or sub-committee, s/he may speak at a meeting subject to giving notice to the Chairman of the meeting before the start of the meeting and the Chairman giving his or her consent.
- 7.4 The following arrangements apply in the cases of Licensing Committees and Planning Committees:
- 7.4.1 Members may only attend and speak at Licensing Sub-Committees (or the Licensing Committee if it is conducting the hearing or review of determinations under the Licensing Act of 2003 or the Gambling Act of 2005) in accordance with the Members Licensing Code of Good Practice.
- 7.4.2 Members may only address Area Planning Sub-Committees on applications which affect their ward.
- 7.4.3 One ward Member who is not a member of the Planning and Environment Committee will have the right to address that Committee when it considers any planning application relating to the ward in question. Where the ward is represented by Members from more than one party group one Member from each party group may address the Committee.
- 7.5 Where an area sub-committee has referred an item up to the parent committee, the Chairman of the sub-committee will have a right to attend and speak at the meeting of the parent committee where the referral is being considered.

8. Disorderly Conduct

- 8.1 If the Chairman considers that a Member is behaving improperly or offensively he/she Chairman reserves the right to prevent the Member from speaking (but not voting) at the meeting. If the disorderly conduct continues the Chairman may require the Member be removed from the meeting. When a Member is removed, they must leave for the entire remaining part of the meeting.
- 8.2 If a member(s) of the public or press interrupts the proceedings at any meeting, the Mayor or Chairman may warn him/her. If s/he continues the interruption and a warning has previously been given, the Mayor or Chairman may order his/her removal from the meeting place. In the event that the meeting is disrupted the Mayor or the Chairman may adjourn the meeting and if required clear the public gallery. The meeting will then reconvene to consider the remaining business without the public.

Motions and Amendments

9. Validity of Motions and Amendments

- 9.1 Every motion, amendment or question shall be relevant to matters within the committee, sub-committee or panel's terms of reference and to the agenda for the meeting. The Chairman of the meeting shall, if need be, give a ruling as to whether the motion is relevant.
- 9.2 An amendment must be relevant to the motion and shall be to either:-
- 9.2.1 refer a subject of debate to another committee for consideration or re-consideration; or
 - 9.2.2 change the words (including leaving out words or adding words);
- but such changes must not merely have the effect of negating the motion before the committee.
- 9.3 No Member may personally move more than one amendment to a motion. However, amendments may be discussed together.
- 9.4 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved. This is known as the substantive motion.
- 9.5 If the amendment is lost further amendments may be proposed on the original motion.
- 9.6 Once all amendments are dealt with in this way, the motion or the motion as amended is then put to the final vote.
- 9.7 All motions which are moved and voted on will be recorded in the decisions of the committee or sub-committee.

10. Motions which may be moved during debate

When a motion is under debate no other motion shall be moved except motions:-

- 10.1 to amend the motion;
- 10.2 to adjourn the meeting;
- 10.3 to adjourn the debate;

- 10.4 that the question be now put;
- 10.5 by the Chairman
- that a Member be prevented from speaking;
 - that a Member must leave the meeting;
- 10.6 to exclude the press and public under Section 100A (4) of the Local Government Act 1972.

Decisions

11. After each meeting decisions made under the committee or sub-committee's delegated powers will be produced and published on the council's website and will be made available in paper format on request.
- 12. Reports of Committees to Council or parent body**
- 12.1 There are a number of ways committees and sub-committees may refer reports to their parent bodies or Council as follows:
1. If a matter is outside the powers of the committee or sub-committee, it must be referred to the parent body
 2. The Chairman of an area sub-committee may refer a matter up to the parent body, together with the sub-committee's recommendations
 3. If the majority of members on the committee or sub-committee decide the parent body should consider the matter; (in this case the committee may either wish to make a recommendation to the parent body or request the parent body's instructions); or
- 12.2 In the case of the Planning and Environment Committee and General Functions Committee, a summary of the officer's report to the committee and the recommendations of the committee will be submitted to the next meeting of the Council where:-
- 15.1.1 a committee has made recommendations on a matter within its terms of reference but outside its delegated powers; or
- 15.1.2 any committee has agreed to suspend a decision on a particular item until Council has considered the matter.
- 13. Reports of sub-committees and panels**

- 13.1 A report of a sub-committee or panel will be submitted to the next meeting of the parent committee where:-
- 16.1.1 the sub-committee or panel has made recommendations on a matter within its terms of reference but outside its delegated powers; or
 - 13.1.2 any sub-committee or panel by agreement or majority vote has agreed to suspend a decision on a particular item until the parent committee has considered the matter.
 - 13.1.3 a chairman of an area sub-committee has referred the decision up under paragraph 5.2 of Part 3 of the Constitution, in which case the sub-committee's recommendation will be referred up to the parent committee.
 - 13.1.4 any area environment sub-committee considering a proposal for discharging an Executive function for a location that crosses their boundaries do not approve recommendations submitted to them.
- 13.2 Any report from a sub-committee or panel on its proceedings shall be submitted to the parent committee and not direct to the Council.

14. Suspension of business at committee and sub-committee meetings

- 14.1 No business at any meeting of a committee or sub-committee shall be transacted after 10 p.m. and any business transacted after that time shall be null and void. At 10 p.m. and without further debate the Chairman shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.
- 14.2 At any meeting of the Council, Planning and Environment Committee and an Area Planning Sub-Committees, the Chairman at their sole discretion may extend the period for the transaction of business to 10.30 p.m. This will be recorded in the Committee's/ Sub-Committee's decisions.
- 14.3 Residents Forums will meet at 6pm and will conclude their business by 8pm at the latest, followed by the Area Environment sub-Committee on the same night and same venue at 7pm or on the conclusion of the Residents' Forum, whichever is later.
- 14.4 If any items remain on the agenda to be dealt with, the committee or sub-committee may decide to call a special meeting or refer the remaining items to the next ordinary meeting

Voting and recording of votes

15. Voting at meetings:

15.1 The mode of voting at all meetings of the Council, its committees, sub-committees or panels shall be determined by a show of hands except where otherwise provided by law or in these standing orders.

16. Members dissent:

16.1 A member of the body can request that his/her vote to be recorded in the minutes

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APPENDIX M

Section 4 – Public Participation and Engagement

1. Introduction

- 1.1 This section relates to how members of the public can participate in the formal decision making process of the Council. There are other less formal ways that the public can engage with the Council (such as Resident's Forums, consultations and other working groups) all of which form part of the governance and accountability framework.
- 1.2 There are three ways in which members of the public can participate in committee meetings. These are:
 - By asking a public question
 - By making a public comment
 - By submitting a petition
- 1.3 The following sections outline the process by which members of the public can exercise their right to participate in formal committee meetings, as well as giving details of the rules governing the exercise of these powers.

2. Public Questions

- 2.1 Questions must relate to an item being considered on a committee agenda and be addressed to the committee Chairman. Committee agendas are published on the Council's website five working days prior to the meeting. Members of the Public should state their current/business address or organisation when submitting questions.
- 2.2 Questions should be submitted to the relevant Governance Officer by 10am on the second working day prior to the meeting. Any questions submitted after this time will not be considered.
- 2.3 At the meeting, a time period of up to 30 minutes, or for up to 20 questions (whichever occurs first), is available for public questions.
- 2.4 Written responses to public questions will be circulated to the questioner in advance, or at the meeting. If they wish, members of the public can ask the committee chairman one supplementary question at the committee meeting, which will be answered without discussion.

- 2.5 Members of the public submitting questions are able to send a substitute to ask their supplementary question if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing

3. Public Comments

- 3.1 Comments must relate to an item being considered on a committee agenda and provide members of the public with an opportunity to address Committee Members. Committee agendas are published on the Council's website five working days prior to the meeting.
- 3.2 Requests to speak should be submitted to the relevant Governance Officer named on the front page of the agenda and received by 10am on the second working day prior to the meeting. Any requests to make comments after this time will not be considered.
- 3.3 At the meeting, each speaker will have a time period of up to 5 minutes to address the Committee. Committee Members will then have the opportunity to question each speaker on the representation that they have made.

4. Public Comments at Planning Committees and Sub-Committees

- 4.1 For requests to speak on planning applications or tree preservation orders at planning committee or sub-committee meetings, the following rules apply.
- 4.2 Requests to speak should be sent by e-mail or post to the Planning Service and **received** by 10am on the third working day prior to the meeting.
- 4.3 A maximum of three speakers are able to address the committee or sub-committee on each application. There can be a maximum of two speakers in favour or against an application. The third speaker slot is reserved for the applicant or their agent whose representation will be taken as the last speaker on an item (in order that they can address any comments or concerns raised). Any Councillor wishing to address the Committee or sub-Committee shall have up to 3 minutes and shall be in addition to the two speakers.
- 4.4 Where more than the maximum number of requests to speak have been received, the public shall decide amongst themselves who is to address

the Committee. If this does not take place, the Chairman shall use their discretion to determine who is able to speak).

- 4.5 When registering to speak, members of the public will be asked by the Planning Service if they consent to having their details passed on to other supporters or objectors, thus enabling them to put forward views of others who have an interest in and wish to make representations on the application. If public speakers are representing the views of others, written authorisation is required. Written authorisations must be submitted to the Governance Officer before the meeting commences. Where this authorisation is received, the public speaker must inform the committee in making their presentation who they are representing in their submission.
- 4.6 At the meeting, each speaker will have a time period of up to 3 minutes to address the Committee. Committee members will then have the opportunity to question the speaker.
- 4.7 Members of the public making comments to planning committees and sub-committees are able to send a substitute if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of the substitution prior to the meeting commencing.
- 4.8 Where a Planning Committee or Planning sub-Committee is considering an application that has been recommended for refusal by Officers and there are no objectors speaking on the application, the Applicant or their agent shall have the right to address the Planning Committee or Planning sub-Committee.

5. Restrictions and Exceptions for Public Questions and Comments

- 5.1 Public questions and comments are not permitted:
 - On any matter which has been the subject of a decision of any committee in the previous six months
 - If they are requests from or in connection with the aims and activities of a political party
 - If they would result in the release of confidential information, or which may prejudice enforcement
 - If they relate to a matter where this is a right of appeal against any decision of the Council

- If they are defamatory, abusive or offensive
- if submitted from council employees or trade unions on employment matters; there are avenues available for these to be addressed via the terms of reference of the General Functions Committee.

The Chairman of the relevant Committee or Sub-Committee, in consultation with the Head of Governance shall decide whether any particular comment or questions will be permitted.

5.2 Public questions and comments are not permitted at the following meetings:

- Council
- Informal meetings
- Licensing Committees and sub-Committees – the procedure for making representations on licensing applications is prescribed by the Licensing Act 2003

5.3 Public questions are not permitted at Overview and Scrutiny Committees when they are considering call-ins or undertaking pre-decision scrutiny of executive decisions.

5.4 Public comments are permitted at Cabinet or Cabinet Committee meetings with the agreement of the Chairman. Public questions are permitted in the usual manner.

6. Petitions

6.1 Petitions must have a minimum of 25 signatures and be relevant to the functions of the authority. The petition will be presented to the Governance Service who will forthwith present it to the relevant Director.

6.2 Petitions can either be submitted in hard copy to the Head of Governance or by using the authority's e-petitions facility. It is acceptable to combine paper petitions and e-petitions, providing the action the council is being requested to take in the petitions are the same. An e-petition will only be accepted if it complies with the terms and conditions set out in the Council's e-petitions facility.

6.3 Petitions will not be accepted if they are:

- vexatious or abusive
 - relate to any enactment or statutory provision; or
- 6.4 Petitions relating to planning or licensing applications, appeals or reviews will be dealt with by the relevant service area and will be taken into consideration in dealing with the relevant application, appeal or review. Petitions that are submitted to the Council that do relate to Planning or Licensing matters will be taken into account by the relevant service during the consideration of an application.
- 6.5 Petitions will be acknowledged within 10 working days. The acknowledgement will include information on action that will be taken by the Council in respect of the petition.
- 6.6 Petitions which receive over 25 signatures will be considered in one of the following ways:
- i) At the relevant Residents' Forum, if the issue raised relates to matters as defined in the Terms of Reference, contained within Article 10 of the Constitution or
 - ii) Be referred to the appropriate Cabinet Member and Director who will provide a written response to Lead Petitioner in respect of the issue(s) raised within 20 working days. In this case, the item will be noted at the next Residents Forum, with any action taken.
- 6.7 In relation to petitions considered at Residents' Forums (as referred to at 6.6 i) above), the following actions are available to the Forum:
- i) Take no action
 - ii) Refer the issues as a relevant matter to the relevant Area Environment Sub-Committee (which meets immediately after the Residents' Forum). The Chairman of the Forum will present the petition, outline the issues raised by the petitioner(s) and recommend a course of action, in line with the Sub-Committee's terms of reference.
- 6.8 In relation to petitions referred to Area Environment Sub-Committees as relevant matters, the following actions are available to the Sub-Committee:
- Note the petition
 - Ask officers to present a report to a future meeting of the Area Environment sub-Committee
 - Formally refer to the Cabinet Member
 - Formally instruct an officer (within their powers) to take action

- To bring the matter to the attention of the Ward Councillors (who will consider and respond to the issue individually)

6.9 In addition to the procedure outlined in paragraphs 6.6 – 6.8 above, petitions which receive 2,000 signatures and over but less than 7,000 will be considered at the next available meeting of the Business Management Overview and Scrutiny Committee. Petitions are required to be received 15 days before the Committee meeting, and only one petition will normally be heard per meeting. The Committee Chairman will request that the relevant Cabinet Member and Chief Officer attend the meeting to be called to give account with regard to the issues raised. Details of the procedure to be followed at the meeting and the actions available to the Committee are set out below:

- i) Lead Petitioner is given five minutes to present the petition;
- ii) Committee Members have an opportunity to ask questions of the Lead Petitioner;
- iii) Cabinet Member and Chief Officer respond to the issues raised in the petition;
- iv) Committee Members ask questions of the Cabinet Member and Chief Officer;
- v) The Committee will then consider the issues raised and the responses received and take one of the following actions:
 - Take no action
 - Note the petition
 - Make representations to the relevant Cabinet Member and Chief Officer on the issue(s) raised in the petition, detailing the Committee's view on the issue(s) and a recommended course of action. Such a representation requires a formal response to the Committee Chairman and Lead Petitioner within 20 working days
 - Instruct an officer to prepare a report for a future meeting of the Committee on the issues raised
 - Commission a committee report on the issue(s)
 - Commission a Task and Finish Group or Panel to consider the issue(s)

6.10 In addition to the procedure outlined in paragraphs 6.6 – 6.9 above Petitions which receive 7,000 signatures or over will be considered at the next available Full Council meeting. Petitions are required to be received 15 days before the Council meeting, and only one petition will be heard per meeting. Details of the procedure to be followed at the meeting are set below:

- i) Lead Petitioner is given five minutes to present the petition;
 - ii) Council Members have an opportunity to ask questions of the Lead Petitioner then debate the item.
 - iii) The relevant Cabinet Member will respond to the issues raised in the petition and outline the action (if any) he/she proposes to take
- 6.11 A notification of formal receipt of a petition will be published on the council's website via the Council's e-petition facility.

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APPENDIX N

Access to Information Procedure Rules

References:

Sections 100A-H and Schedule 12A Local Government Act 1972
Local Government (Access to Information) Act 1985
Data Protection Act 1998
Section 22 of the Local Government Act 2000
Chapter 7, DETR Guidance
Freedom of Information Act 2000
Environmental Information Regulations 2004
Local Government (Access to Information) (Variation) Order 2006
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

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

1. SCOPE

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

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

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

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

4. NOTICES OF MEETING

The Council are required to give at least five clear working days notice of any statutory meeting by posting details of the meeting at Hendon Town Hall, The Borroughs, Hendon, NW4 4BG (the designated office) or other designated place and on its website at www.barnet.moderngov.co.uk

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

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

6. SUPPLY OF COPIES

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

7. ACCESS TO MINUTES AFTER THE MEETING

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

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

8. BACKGROUND PAPERS

8.1 List of background papers

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

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

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

These documents will be made available on request.

8.2 Public inspection of background papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

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

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

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

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information means information falling within the following categories:

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

8	Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
9	Information which – (a) falls within any of paragraphs 1 to 7 above; and (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Head of Governance thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by passing a resolution to exclude the press and public from the meeting. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

12. APPLICATION OF RULES TO THE EXECUTIVE

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

If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency), a key decision may not be taken unless a notice has been published a minimum of 28 days in advance of the decision being taken detailing the title, description and responsible Cabinet Member and officer.

14. ADVANCED NOTICE OF EXECUTIVE DECISIONS

Period of Advanced Notice of Executive Decisions

The Advanced Notice of Executive Decisions will provide details of proposed decisions due to be taken under Executive functions, together with information as to whether any

proposed decisions are subject to an exempt report. All prospective decisions listed are to be regarded as potentially key or potentially subject to a separate exempt report (not held in public session). The Advanced Notice of Executive Decisions will be published on the website a minimum of 28 days in advance of a key decision or a decision subject to exempt being taken.

15. **GENERAL EXCEPTION**

If a matter which is likely to be a key decision or an Executive decision which is subject to exempt information which has not been included on the Advanced Notice of Executive Decisions, then subject to Rule 16 (Special Urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been subject to the 28 day notice requirements;
- (b) the Head of Governance has informed the Chairman of a relevant Overview and Scrutiny Committee (or if there is no such person, each member of that committee) of the matter to which the decision is to be made;
- (c) the Head of Governance has made copies of that notice available to the public at the offices of the Council and on the Council's website; and

16. **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman the Business Management Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If the Chairman is not available or is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

17. **REPORT TO COUNCIL**

17.1 **When an Overview and Scrutiny Committee can require a report**

If an overview and scrutiny committee thinks that a key decision has been taken which was not compliant with the provisions outlined at section 14, 15 and 16 above the committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Head of Governance, who shall require such a report on behalf of the committee when so requested by the Chairman or three members any overview and scrutiny committee or sub-committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 **Executive's Report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to

the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision. If the Leader is of the opinion that it was not a key decision, she/he will outline the reasons for that opinion.

17.3 Quarterly Reports on Special Urgent Decisions

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

18. RECORD OF DECISIONS

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

19. PROCEDURES PRIOR TO PRIVATE MEETINGS

- 19.1 Meetings of the Executive, or a committee of the executive, are to be open to the public or held in private. Whilst there is a presumption that meetings will be held in public, the Executive can decide which of its meetings (including a committee of the executive) are to be open to the public and which of those meetings are to be held in private.
- 19.2 If the Executive decides to hold a meeting in private, the Head of Governance must publish a notice at least 28 clear days before the meeting a notice of the intention to hold the meeting in private and make this available at the offices of the local authority and on the website. The notice must include a statement of the reasons for the meeting to be held in private.
- 19.3 At last five clear days before the meeting, the Head of Governance must publish a further notice of the intention of the decision-making body to hold the meeting in private and make this available at the offices of the local authority and on the website. The further notice must include a statement of the reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public and a statement of its response to such representations.
- 19.4 Where the date by which a meeting must be held makes compliance with 19.2 and 19.3 impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Business Management Overview and Scrutiny Committee (or if there is no such person to act, the Mayor, or in the Mayors absence, the Deputy Mayor) setting out the reasons why the meeting is urgent and cannot reasonably be deferred. As soon as reasonably practicable after the decision-making body has obtained the agreement to hold a private meeting, the Head of Governance must publish a notice of the intention to hold a meeting in private setting

out the reasons why the meeting is urgent and cannot reasonably be deferred and make this available at the offices of the local authority and on the website.

20. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE

20.1 Reports intended to be taken into account

Where an individual member of the Executive receives a report which s/he intends to take into account in making any decision, then s/he will not make the decision until at least 5 clear working days after receipt of that report.

20.2 Provision of copies of reports to overview and scrutiny committees

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

20.3 Record of individual decision

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

21. Joint Committees

These Rules apply to the Council's Joint Committees as follows:

(a) If all the members of a joint committee are members of the Executive in each of the participating authorities, then its access to information regime is the same as that applied to the Executive.

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

22. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, an overview and scrutiny Committee (including its sub-committees) will be entitled to copies of any document that is relevant to its terms of reference and which is in the possession or control of the Executive or its committees and which contains material relating to

(a) any business transacted at a public or private meeting of the Executive or its committees

(b) any decision taken by an individual member of the Executive or an officer exercising executive functions.

In relation executive decisions at meetings, such documents must be made available for inspection at least five clear working days before the meeting. Where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened. Where an item is added to the agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.

In relation to business conducted at a private meeting or individual executive decisions, documents must be available for inspection when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made.

Where the executive determines that a member of an overview and scrutiny committee is not entitled to a copy of a document or part of any such document, it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

22.2 **Limit on rights**

An overview and scrutiny committee will not be entitled to:

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

23. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS TO EXECUTIVE INFORMATION**

23.1 **Material relating to previous business**

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

- (a) it contains exempt information as set out in paragraph 10.4 above, save that if the information falls within paragraph 3 (information relating to the financial or business affairs of any particular person) they shall be entitled to inspect the document except to the extent that it relates to terms proposed by or the Council in the course of negotiations for a contract or would reveal the Council's proposals to give notice or make an order or direction under any enactment; or
- (b) it contains the advice of a political assistant.

23.2 **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committee which relates to any key decision unless paragraph 22.1 (a) or (b) above applies.

23.3 **Nature of rights**

These rights of a Member are additional to any other right s/he may have.

24. **MEMBERS' OTHER RIGHTS TO INFORMATION**

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

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

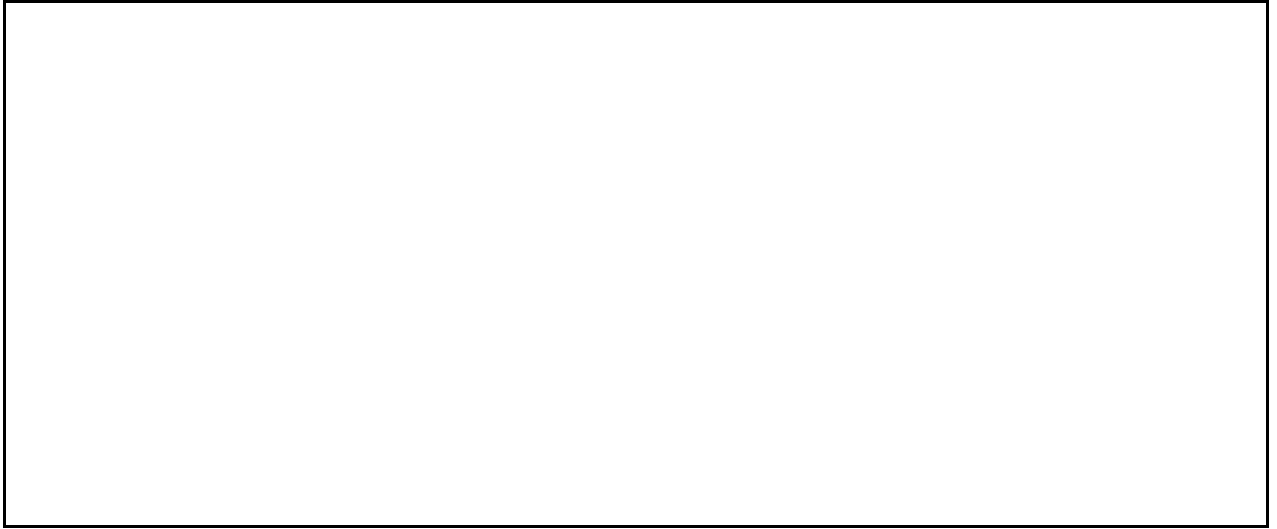
24.3 This shall not preclude the Director of Assurance from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act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

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

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

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





Appendix 0

Budget and Policy Framework Procedure Rules

References:

Chapter 2, DETR Guidance

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

1. The framework for decisions

References in these rules to the statutory policy framework are to the plans and strategies required by law to be adopted by the Council and set out in Article 4.

The Council will be responsible for the adoption of its statutory policy framework.

Note : this refers to the statutory policies that comprise the Policy Framework as set out in regulations that have to be agreed by full Council.

The Council will be responsible for adopting its budget prepared in accordance with the Financial Planning Rules in Part 4 of the Constitution.

The Executive will be responsible for the adoption of all other policies including those listed in Part 3 of the Constitution (section 3 - responsibility for Executive functions).

Note: this includes all the other statutory plans, and any policies that do not form part of the statutory Policy Framework

Once a budget or a policy within the statutory policy framework is in place, it will be the responsibility of the Executive to implement it.

2. Meetings to develop budget and policy

The Executive will develop the policy and budget framework, normally at private meetings attended by members of the Executive and relevant officers.

These meetings will –

- **Policy** – hold general discussions, receive briefings and consider draft reports and advice from political assistants on policy initiatives that the Executive wishes to promote and draft policies that the Executive is developing.
- **Budget** – hold general discussions receive briefings and consider draft reports and advice from officers (including political assistants) in order to prepare draft estimates of income and expenditure.

Private meetings of the Executive will comply with the Access to Information Procedure Rules in Part 4 of the Constitution, and will be separate from public meetings of the Executive.

3. Procedure for policy development

The procedure for developing policies before they are submitted to Council, and policies that are not submitted to Council, shall be at the discretion of the Executive, but the following procedure will usually be followed.

- (a) The Executive may initiate a new policy proposal, or a review of an existing policy, by undertaking consultation with the public and/or persons affected by it before referring it to Council or developing it in detail.
- (b) With or without such consultation, the Executive may refer the proposal or review to Council for discussion. Opposition Groups, Overview and Scrutiny Committees may also refer policy proposals to Council.

<p>Note: discussion at Council is optional, but will normally be appropriate for major policies or reviews</p>

- (c) With or without prior discussion at Council, the Executive will publish policy proposals that it intends to promote by including references to them in the Forward Plan and notifying Chairmen of Overview and Scrutiny Committees at a meeting which will normally be arranged in April each year, following publication of the draft Corporate Plan for consideration by Cabinet. Where this is known, this will include the arrangements for publicising and consulting on the proposals and the timetable for decisions on them.

The relevant Overview and Scrutiny Committees will then consider and identify the policies to whose development they wish to contribute for inclusion in their work programmes for submission to Council. Once the programmes have been approved by the Council, the Chairmen will formally notify the Leader. The Overview and Scrutiny Committees should indicate timescales and methodology for carrying out their research and should not delay the work of the Executive.

The Executive will not take decisions to introduce policies where the Overview and Scrutiny Committees have indicated an interest unless they consider that the overview and scrutiny processes are unreasonably and unnecessarily delaying their work.

- (d) If during the year the Executive include other proposed policies in the Forward Plan, the leader will advise the Chairman of the relevant Overview and Scrutiny Committee who will arrange for the Overview and Scrutiny Committee to consider whether it wishes to be involved in the development process without delay, in accordance with (b) above.
- (e) The Executive may use other methods of consultation as well.
- (f) The Executive will take into account any comments made by an overview and scrutiny committee before either approving the new policy or, in the case of a policy that is within the statutory policy framework, deciding to refer it to full Council for adoption.

- (g) The Executive may decide to repeat any part of the process if it wishes to make a change to the proposal, but need not do so.

4. Procedure for budget preparation

The Executive will follow the process set out in the Financial Standing Orders in Part 4 of the Constitution, or a similar process determined by it. This will include the following elements.

- (a) The Executive will publish draft budget headlines for discussion at Cabinet
- (b) The Executive will arrange detailed consultation with the Budget and Performance Overview and Scrutiny Committee, the public and others where necessary
- (c) The Executive will take into account any comments made during consultation, and including any made by the Chairman of the Budget and Performance Overview and Scrutiny Committee at the meeting of Cabinet, before deciding to refer the final budget proposals to full Council for adoption.

5. Adoption of budget and policies within the statutory framework

- (a) In the case of a policy that is within the statutory policy framework, and the final budget proposals (both of which are referred to full Council for adoption) the Council may
- adopt the proposals
 - amend the proposals
 - refer the proposals back to the Executive
 - in principle, substitute its own proposals
- (b) If it accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect. Otherwise it may only make an in-principle decision. In either case the decision will be made on the basis of a simple majority of votes cast at the meeting
- (c) The decision will be published and notified to the Leader.
- (d) An in-principle decision will automatically become effective 7 days from the Council's decision, unless the Leader informs the Head of Governance in writing within 5 days that he/she objects and gives reasons why.
- (e) In that case the Head of Governance will place the matter on the agenda for the next Council meeting (and request the Mayor to summon an extraordinary Council meeting if necessary to meet a statutory deadline). The Council will be required to reconsider its decision and the Leader's written submission. The Council may:
- approve the Executive's recommendation by a simple majority of votes cast at the meeting; or

- approve a different decision, which does not accord with the recommendation of the Executive, by a simple majority.
- (f) The decision shall then be made public and implemented immediately.

6. Decisions outside the budget or statutory policy framework

- (a) Subject to the provisions of paragraphs 3.8 and 6.6 of Part 3 of the Council's Constitution (virement) and paragraph 8 (in year changes to the statutory policy framework) the Executive, committees of the executive, individual members of the executive and any officers, area committees or joint arrangements discharging executive functions may only take decisions which are not contrary to the budget and statutory policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the statutory policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 8 below.
- (b) If the Executive, committees of the executive, individual members of the executive and any officers, area committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the chief financial officer as to whether the decision they want to make would be contrary to the statutory policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or statutory policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 7 (urgent decisions outside the budget and statutory policy framework) shall apply.

7. Urgent decisions outside the budget or statutory policy framework

- (a) The Executive, a committee of the executive, an individual member of the executive or officers, area committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's statutory policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
 - (ii) if the chairman of the Business Management Overview and Scrutiny sub-Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the Business Management Overview and Scrutiny Committees consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Business Management Overview and Scrutiny

Committee the consent of the Mayor, and in the absence of both the Deputy Mayor, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

8. In-year changes to the policy framework

The responsibility for agreeing the budget and statutory policy framework lies with the Council, and decisions by the Executive, a committee of the Executive, an individual member of the executive or officers, Area sub-Committees or joint arrangements discharging executive functions must not conflict with it. No changes to any policy and strategy which make up the statutory policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

9. Call-in of decisions outside the budget or policy framework

- (a) Where, upon a Call-in, the Business Management Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.
- (b) In respect of functions which are the responsibility of the executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be sent to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer and/or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to

the next meeting of the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting the Council will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

(i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way.

Or

(ii) amend the council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

(iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

APPENDIX P

Executive Procedure Rules

1. HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make executive decisions?

Executive functions may be discharged by:

- (i) the executive as a whole;
- (ii) a committee of the executive;
- (iii) an individual member of the executive;
- (iv) an officer;
- (v) an area committee;
- (vi) joint arrangements; or
- (vii) another local authority through joint arrangements.

1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will include the name and ward of the person appointed as the executive deputy leader and contain the following information about executive functions in relation to the coming year:

- (i) the names and wards of the people appointed to the executive;
- (ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of executive members appointed to them;
- (iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year; and
- (v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of Executive functions

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an Executive function, they may delegate further to an Area sub-Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the executive may delegate further to a committee of the executive or to an officer.

- (c) Unless the Leader directs otherwise, a committee of the executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and Executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Governance and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The Head of Governance will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader and will immediately make the necessary changes to the Constitution unless the change is to the Cabinet membership, in which case the change will be approved by Council prior to the Constitution being updated. Any changes other than to the Cabinet membership will be reported by the Head of Governance to all Members as soon as possible, generally the working day after notification is received from the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chairman.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Barnet's Code of Conduct for Members in part 5 of this Constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Barnet's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive meetings – when and where?

- 1.6.1 The Executive will meet normally on the days set in the Council calendar at times to be agreed by the Leader. The Executive shall meet at the Council's

main offices or another location to be agreed by the Leader. The Leader may convene additional meetings of the executive.

1.7 Public or private meetings of the executive?

1.7.1 The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings of the executive.

1.8 Principles of Executive decision making

1.8.1 All decisions of the Executive will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) explaining what options were considered and giving the reasons for the decision.

1.9 Quorum

1.9.1 The quorum for a meeting of the executive shall be one half of the total number of members. The quorum for a meeting of a committee of the executive shall be 3.

1.10 How are decisions to be taken by the executive?

1.10.1 Decisions which have been delegated to the Executive or a committee of the Executive will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

2.1.1 At a meeting of the Executive, if the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside. In the absence of both, the meeting will be presided over by a member of the Executive as notified by the Leader to the Head of Governance. In the absence of such notification a person shall be appointed to preside by those present.

2.1.2 At a meeting of a Committee of the Executive, the Chairman shall preside. In the absence of the Chairman a person shall be appointed to preside by those present.

2.1.3 The person presiding at the meeting may exercise any power or duty of a Chairman concerning the conduct of the meeting.

2.1.4 The person presiding at the meeting will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment, in accordance with the provisions of the Local Government Act 1972, provided he or she has voted when the motion or amendment was first put to the vote.

2.2 Who may attend?

2.2.1 These details are set out in the Access to Information Rules in Part 4 of this Constitution.

2.3 What business?

2.3.1 At each meeting of the executive the following business will be conducted:

- (i) consideration and signing of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in part 4 of this Constitution;
- (iv) matters referred to the executive (whether by Overview and Scrutiny or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution; and
- (v) consideration of reports from overview and scrutiny committees.

2.4 Consultation

2.4.1 All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the executive agenda?

2.5.1 The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The Head of Governance will comply with the Leader's requests in this respect.

2.5.2 Any Member of the Executive may require the Head of Governance to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request the Head of Governance will comply.

2.5.3 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Head of Governance to call such a meeting in pursuance of their statutory

duties. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require the Head of Governance to convene a meeting at which the matter will be considered.

2.5.4 When a matter has been referred by Council to the Executive or Cabinet Member for consideration, the Head of Governance will report to the Executive or Cabinet Member who in turn will notify the Head of Governance of their response or proposed action and the Head of Governance will report to the next meeting of Council.

2.6 Quorum – Rules

2.6.1 Except when authorised by statute, business shall not be transacted at any meeting of any the executive or its committees unless there is a quorum.

2.6.2 If the Leader or other member presiding at the meeting finds that a quorum of members is not present at any time during the meeting, they must adjourn the meeting and the Head of Governance shall record in the minutes of the meeting the names of those who were present and those who were absent.

2.7 Decisions

2.7.1 After each meeting decisions made under the executive's or its committee's powers will be produced and made available to all members of the Council.

Suspension of Business at Executive and Executive Committee Meetings

2.8 The time limit for meeting and outstanding business

2.8.1 No business at any meeting of the executive or its committees shall be transacted after 10 p.m. and any business transacted after that time shall be null and void. At 10 p.m. and without further debate the person presiding at the meeting shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.

2.8.2 If any items remain on the agenda to be dealt with, the executive or its committee may decide to:-

- (i) call a special meeting or refer the remaining items to the next ordinary meeting; or
- (ii) adjourn the meeting, but only the remaining items may be dealt with at the adjourned meeting. No new items may be put on the agenda and any members not present at the meeting must not attend for the adjourned meeting.

2.9 Voting at meetings:

- 2.9.1 The mode of voting at all meetings of the executive and its committees shall be determined by a show of hands except where otherwise provided by law.

APPENDIX Q

Overview and Scrutiny Procedure Rules

- 1.1 The Local Government Act 2000 determined that the following responsibilities would fall within the remit of the Overview and Scrutiny function:
 - (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive;
 - (b) to make report or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive;
 - (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;
 - (d) to make report or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive;
 - (e) To make recommendations to the authority or the executive on matters which affect the authority's area or inhabitants.
- 1.2 These responsibilities have been further strengthened by other legislation, including the Local Government and Public Involvement in Health Act 2007, the Crime and Disorder Act 2006, Localism Act 2011, Health and Social Care Act 2012 and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 1.3 The Health and Social Care Act 2001 paved the way for scrutiny by local authorities of other statutory bodies, by establishing Overview and Scrutiny Committees with the remit of scrutinising health service provision.
- 1.4 The authority shall appoint a nominated Scrutiny Officer in line with the requirements of the Local Democracy, Economic Development and Construction Act 2009.
- 1.5 The following procedure rules provide the framework for the operation of the Overview and Scrutiny processes in Barnet.

Overview and Scrutiny Procedure Rules

Part 1: Formal Committees

1. What will be the number and arrangements for Overview and Scrutiny Committees?

1.1 The Council will have the Overview and Scrutiny Committees set out in the attached Terms of Reference. Such Committees may appoint sub-Committees. Overview and Scrutiny Committees may also be appointed by the Council for a fixed period and with terms of reference stated when they are appointed, on the expiry of which they shall cease to exist

2. Who may sit on Overview and Scrutiny Committees?

2.1 All councillors, except Members of the Executive, may be members of an Overview and Scrutiny Committee. However, no Member may take part in scrutinising a decision in which he/she has been directly involved.

3. Co-opted Members

3.1 Education

Co-opted Education members who will be invited to attend and vote at any meeting where matters are being considered that relate, either in whole or in part, to any education functions which are the responsibility of the Executive.

Where the Committee are considering education functions and then considers other items that do not relate to education, the co-opted members may remain and speak but not vote.

VOLUNTARY AIDED SCHOOL REPRESENTATIVES (3)
<ul style="list-style-type: none">• One Church of England diocese representative (statutory)• One Roman Catholic diocese representative (statutory)• One representative of persons who appoint foundation governors to voluntary aided Jewish schools <i>(Note: this is at the discretion of the council who are free to appoint representatives from other communities/faith groups as they see fit)</i>
PARENT GOVERNOR REPRESENTATIVES (2)
Two parent governor representatives - one for secondary schools and one for primary schools

3.2 Housing

Where issues relating to housing or housing benefits and/or the Council's functions as a housing authority are to be discussed by any Overview and Scrutiny body, the Head of Governance, in consultation with the relevant Chairman will arrange for two non-voting representatives appointed by the Barnet Homes Performance Advisory Group to be invited to attend the meeting and speak but not vote on such issues.

4. Formal Meetings of the Overview and Scrutiny Committees and sub-Committees

4.1 Each Overview and Scrutiny Committee shall meet as frequently as it considers necessary to complete its programme of work.

4.2 Although Overview and Scrutiny Committees will normally meet at the Town Hall, meetings may be held at other venues, provided the venue fulfils legislative requirements with respect to the admission of the press and public.

5. Quorum

5.1 The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

6. Who chairs Overview and Scrutiny Committee meetings?

Chairmen of Overview and Scrutiny Committees will be appointed by the Council, normally at their Annual Meeting, from among the councillors sitting on the committee.

7. Annual Review of Effectiveness and Annual Report

The Business Management Overview and Scrutiny Committee will, each year, produce an Overview and Scrutiny Annual Report for Council which will include:

- (a) details of Overview and Scrutiny work carried out during the municipal year;
- (b) a review the effectiveness of the Overview and Scrutiny processes; and
- (c) detail outline Work Programmes for Overview and Scrutiny Committees for the coming year.

8. Agenda Items

8.1 Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Governance that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request, the Head of Governance will ensure that the item is included on the next available agenda.

8.2 In instances where multiple Overview and Scrutiny Committees request to scrutinise the same item, the item will be considered by the Committee with the most appropriate terms of reference. Members of the other committee(s) which have requested to scrutinise the item will be invited to the meeting where the subject is considered and invited to contribute to the debate (but not vote) on the item. Where there are multiple requests to scrutinise an item, the Chairman of the Business Management Overview & Scrutiny Committee will, in consultation with the Overview & Scrutiny Manager, determine the most appropriate committee.

8.3 The following matters, subject to paragraph 8.4 below may not be considered by an Overview & Scrutiny Committee:

- (a) a matter relating to an individual planning decision;
- (b) a matter relating to an individual licensing decision;
- (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a sub-Committee

8.4 A matter does not fall within a description in paragraph 8.3 if it consists of an allegation that a function for which the authority is responsible has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or an appeal matter

9. Referrals by others

9.1 Requests, reports and submissions from the Council, Executive, residents' forums, community and voluntary groups, partnership and outside bodies and locally constituted groups and responses to "Councillor Call for Action" will be referred to the Business Management Overview & Scrutiny Committee.

9.2 The Committee will meet within one month of the referral being received and will determine what, if any, action is required

9.3 Referred matters clearly within the remit of the Health, Safeguarding or Budget & Performance Overview and Scrutiny Committees will be referred direct to those Committees by the Head of Governance.

10. References from Overview and Scrutiny Committees

10.1 Once an Overview and Scrutiny Committees has considered an issue and formed recommendations, a formal report will be prepared for submission to either:

- (i) the Executive (if the proposals are consistent with the existing budgetary and policy framework);
- (ii) to the Council (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (iii) or any other relevant body (if the matter relates to functions that are the responsibility councils partners or any other external agency)

10.2 If an Overview and Scrutiny body cannot agree on a single reference on an issue, then up to one minority report may be prepared and submitted for consideration to one of the bodies outlined at 10.1 above.

10.3 The Council or Executive shall consider the report of the Overview and Scrutiny Committee at their next scheduled meeting.

11. Ensuring that Overview and Scrutiny Reports are considered by the Executive

11.1 Agendas for Cabinet meetings will include items of business referred from Overview and Scrutiny Committees. Where referrals from Overview and Scrutiny relate to the Executive's deliberations on another substantive item on the agenda, these will be considered concurrently.

11.2 Under the Local Government and Public Involvement in Health Act 2007, the Executive has a duty to:

- (a) consider reports or recommendations made by Overview and Scrutiny bodies;

- (b) respond to the overview and scrutiny committee indicating what (if any) action the authority or the executive propose to take; and
 - (c) publish the response within two months of the report or recommendations being received.
- 11.3 Where an Overview and Scrutiny Committee or sub-Committee prepares a report for consideration by the Executive in relation to a matter where decision making power has been delegated to another individual member of the Executive, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration with copies to the Head of Governance and Leader.
- 11.4 If the relevant Cabinet Member does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Executive for debate, before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee.
- 11.5 The Executive Member to whom the decision-making power has been delegated will respond to the Overview and Scrutiny Committee in line with the provisions set out at 11.2 above. A copy of his/her written response shall be sent to the Head of Governance and he/she will attend a future meeting of the relevant Overview and Scrutiny Committee to respond.

12. Rights of Overview and Scrutiny Committee Members to Documents

- 12.1 In addition to their rights as councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

13. Members and Officers Giving Account

- 13.1 Any Overview and Scrutiny body may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, the body may require any member of the Executive, the Head of Paid Service and any Director or Head of Service or other senior officer to attend before it to explain in relation to matters within their remit and to produce a report if so requested, and it is the duty of those persons to attend if so required.
- 13.2 Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Head of Governance shall inform the member or officer in writing giving notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 13.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance or agree a suitable substitute.

13.4 Where an Overview and Scrutiny Committee has requested reports from external organisations (including those who are responsible for discharging the council's functions and relevant health partners), the relevant officers of those organisations will be expected to produce reports in accordance with statutory deadlines and attend meetings.

14. Ability to invite others to attend meetings

14.1 The Overview and Scrutiny Committees, Task and Finish Groups and other bodies appointed to carry out any aspect of the Overview and Scrutiny responsibilities may invite whoever they wish to assist them in their work.

14.2 The Committees may, for example, wish to hear from residents, stakeholders and Members and/or officers in other parts of the public sector and shall invite such people to attend.

14.3 Attendance by non-Executive Members and the community is, of course, entirely optional, but they will be encouraged to attend, send representatives and/or make submissions. **Officers unable to attend must send a representative.**

15. Call-in

Explanatory note:

Call-in is a statutory process under Section 21 of the Local Government Act 2000.

15.1 When a key decision is made by the Cabinet, a committee of the Cabinet or an individual member of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, the decision shall normally be published on the Council's website within 2 days of being made.

15.2 The Head of Governance shall send a copy of each decision to all Members of the Business Management Overview & Scrutiny Committee and to all Members of the Cabinet.

15.3 Each decision will bear the date of publication and will specify the date on which it will come into force and can be implemented.

15.4 Only key decisions as defined by Article 13 (b) (i) of the Constitution may be called in under Section 21 of the Local Government Act 2000 and for the purposes of Call-in, a key decision under Article 13 (b) (i)

- (a) must involve expenditure or savings in excess of £500,000 as well as otherwise being significant having regard to the Council's budget for the service or function to which the decision relates, or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the borough.

15.5 Where the decision is a qualifying key decision for call-in purposes, the implementation date will not be less than 5 working days after publication. Before the expiry of that date any Member of the Business Management Overview & Scrutiny Committee (or any

substitute Member of that sub-Committee whose appointment for that meeting has been received by the Head of Governance), may call-in the decision by a written request to the Head of Governance to place the decision on the agenda for the next meeting of the Business Management Overview & Scrutiny Committee. The decision shall not take effect until that Committee has met.

- 15.6 If a report has more than one recommendation/decision, the Member must in the written request state and specify which decision(s) he or she is calling in, the reason for the Call-in and what objective the Member seeks to achieve.
- 15.7 The Head of Governance shall return incomplete or inadequate call-in requests, following consultation with the Chairman of the Business Management Overview & Scrutiny Committee (or in the absence of the Chairman, the Vice-Chairman), requesting that the Member calling-in the item provide clarification as to the decision called in, the reason(s) and the objective(s) within one working day in order to progress the call-in.

Attendance at Meetings

- 15.8 For Executive decisions called-in under Rule 15.5, the relevant Cabinet Member shall attend the meeting of the Business Management Overview & Scrutiny Committee in order to respond to:
- (i) the reason(s) and objective(s) for the call-in; and
 - (ii) questions and other issues raised by the Committee.

The relevant Cabinet Member is the Member with delegated executive responsibility for the subject matter of the call-in. If the Cabinet Member is unable to attend the meeting, then the Leader or the Deputy Leader will attend to deal with the item.

Reference Back

- 15.9 If, having considered a decision the Business Management Overview & Scrutiny Committee remains concerned about it then it may refer it back to the decision making body or person for reconsideration, setting out the nature of its concerns, or refer it to full Council if they consider the decision is contrary to the budget or policy framework.

The Committee shall indicate, in the case of decisions with several aspects, the part(s) that is (are) referred back in order that the remaining decisions may be implemented.

If the Committee is content with the action/decision, then can be implemented immediately.

Procedure for decisions referred back to decision-maker

- 15.10 Where a decision is referred back to the original decision maker, he/she will reconsider the decision and decide whether or not to change it before adopting a final decision.
- 15.11 Where the decision was taken by the Executive as a whole or a committee of it, the Head of Governance shall place it on the agenda for the next regular meeting of the Executive or of the relevant committee.

Procedure for decisions referred to Council

- 15.12 The Head of Governance shall include those decisions referred to Council on the agenda for the next available ordinary meeting of the Council.
- 15.13 If the matter was referred to full Council and the Council does not object to a decision or refer it back to the decision maker, then no further action is necessary and the decision will be effective in accordance with the provision below.
- 15.14 However, if the Council does object, it has no locus to make decisions in respect of an Executive decision, unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that it is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision.
- 15.15 Subject to the arrangements in 15.9 above applying where appropriate, that decision-making body or person shall choose whether to amend the decision or not before reaching a final decision within 5 working days of the Council request.

Executive decisions taken by area committees

- 15.16 Where a key decision has been taken by an area committee then the right of call-in shall extend to any other area committee

Exceptions

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

16. Call-in and urgency

- 16.1 The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. An urgent decision may be exempted from the call-in process.
- 16.2 A decision which, if it were not taken promptly or otherwise delayed by the call-in process, would seriously prejudice the Council's or the public's interests will be regarded as urgent.
- 16.3 The record of the decision shall state whether, in the opinion of the decision-making body or person, it is urgent and therefore should be exempted from call-in.
- 16.4 The Chairman of the Business Management Overview and Scrutiny Committee must agree that the decision proposed is reasonable in all the circumstances and is urgent and consent to it being exempted from call-in.

- 16.5 In the absence of the Chairman of the Business Management Overview and Scrutiny Committee, consent to exempt a proposed decision from call-in must be obtained:
- (i) From the Vice-Chairman of the Committee; or
 - (ii) From the Head of Paid Service in the absence of both the Chairman and Vice-Chairman; or
 - (iii) From the nominee of the Head of Paid Service in the absence of the Chairman, Vice-Chairman and the Head of Paid Service.

16.6 For the purposes of granting consent to exempt an urgent decision from call-in, the Head of Paid Service may, if absent, delegate the granting of that consent only to his/her deputy or another Chief Officer of the Council.

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

Where the individual concerned cannot be contacted by any method of communication or has indicated by formal notice to the Head of Governance that he or she will not be contactable during a specified period.

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

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

17. The Party Whip

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

18. Procedure at Overview and Scrutiny Committee Meetings

18.1 Overview and Scrutiny Committees shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) responses of the Executive to reports of the Overview and Scrutiny Committee;
- (iv) the business otherwise set out on the agenda for the meeting.

Note

The following item will also appear on the Agenda of the Business Management Overview and Scrutiny Committee;

Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision or Councillor Call for Action (the arrangements set out in 18.2 – 18.5 below apply when the Committee is dealing with call-in items of business)

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

- 18.3 At 9.45pm, if the meeting has not yet concluded and it does not appear that it would otherwise complete its business, the Chairman, without further debate, shall immediately call for a vote on any motion, duly moved and seconded, that any remaining items on the agenda be referred back to the original decision making body or person, or that it be referred to full Council if it is considered that the decision is contrary to the policy framework or budget.
- 18.4 Any motion by a Member to refer a decision back must concisely articulate the Member's reasons for concern about the original decision; the motion to refer back must be voted upon immediately without further debate.
- 18.5 Any Call-in matters not dealt with by 10pm will be implemented forthwith.
- 18.6 Where an Overview and Scrutiny Committee (or Task and Finish Group/Panel etc) conducts investigations (e.g. with a view to policy development), the body may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the scrutiny body be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the scrutiny body by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- 18.7 Following any investigation or review, the committee/task and finish group/panel etc shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

19. Speaking at Executive Meetings

- 19.1 A member of any Overview and Scrutiny Committee may speak on an item of business on the agenda for a meeting of the Cabinet or a Cabinet Committee subject to:
- (i) giving notice to the Leader or Chairman respectively at least 15 minutes before the start of the meeting;
 - (ii) the Leader or Chairman respectively giving his or her consent; and
 - (iii) the effective conduct of the business of the meeting not being prejudiced.

20. Application of Committees and Sub-Committees Rules to Overview and Scrutiny Committee Meetings

The following rules contained within Section 2 of Part 4 of the Constitution shall apply to Overview and Scrutiny Committees .

Rule 17 below will **not** apply to the Business Management Overview and Scrutiny Committee, as Overview and Scrutiny Procedure Rule 19.2 deals with this point.

1	Substitute Members and Quorum
2	Substitute Members – Rules

4	Quorum – Rules
5	Chairman of Meetings
6	Minutes
8	Councillors’ rights to attend meetings where they are not a member of the committee or sub-committee
9	Councillors’ rights to speak at committees or sub-committees when they are not a member
10	Personal and prejudicial interests
11	Disorderly conduct
12	Validity of Motions and amendments
13	Motions which may be moved during debate
14	Decisions
16	Reports of Sub-Committees and Panels
17	The time limit for meeting and outstanding business
18	Voting at meetings
19	Members dissent
20	Voting on appointments

21. **Part 2 - Other arrangements**

- 21.1 Any Member may, by giving notice to the Head of Governance using the form provided, initiate a Councillor Call for Action relating to a local government matter that is not an excluded matter and where other routes to resolve the issue have not succeeded.
- 21.2 A Councillor Call for Action can only be initiated where:
- (i) it relates to the discharge of any of the Council’s functions;
 - (ii) it relates to a matter which affects the ward of the Member initiating it;
 - (iii) it does not relate to individual planning decisions, licensing decisions or matters where the affected person or body has a statutory right of appeal;
 - (iv) it does not relate to any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for a scrutiny committee meeting.
- 21.3 The Head of Governance will determine whether the request meets the criteria for a Councillor Call for Action. Where the Head of Governance determines that the request does not meet the criteria for a Councillor Call for Action, he/she will, within 10 working days, give written notice of the decision to the Member making the request. In those circumstances, the Member may submit a written request for a review of that decision by the Director of Corporate Governance who will, within 10 working days, determine and give notice of the outcome of that review to the Member. Where the Head of Governance determines that the request does meet the criteria for a Councillor Call for Action, he/she will arrange for the matter to be included on the agenda for the **next available meeting** of the Business Management Overview and Scrutiny Committee.
- 21.4 Where a Councillor Call for Action is included on the agenda for a meeting of the Business Management Overview and Scrutiny Committee, the Committee will consider the evidence submitted and determine how the Call for Action should be progressed. The Member making the request may address the committee before it is considered. Members of the public are able to speak in support of a Councillor Call for Action. Procedures for speaking as set out in Section 4, Public Participation, are applicable.

22. Task and Finish Groups

- 22.1 Task and Finish Groups will carry out their work in the manner in which they see fit. The findings and recommendations of Task and Finish Groups will be presented for consideration to the Business Management Overview and Scrutiny Committee, operating under the Access to Information Rules.
- 22.2 When conducting their research there will be a general expectation that:
- (i) Members in carrying out these activities will, as appropriate, visit and meet with local communities, meet with the Council's partners and others as necessary.
 - (ii) Members will look at a variety of methods for inviting comments and views and publicising their work.
 - (iii) Meetings and other activities may, on occasions, take place at locations away from the Town Hall or other Council offices. The Head of Governance will make the necessary arrangements in consultation with the relevant Chairman and Members.

23. Part 3 - Constitutional issues

- 23.1 The Business Management Overview and Scrutiny Committee will review the operational and constitutional arrangements each year and make recommendations, as necessary, to the Ethics, Constitution and Probity Committee.

Terms of Reference

Business Management Overview and Scrutiny Committee

Membership

10 Non-executive Members of the Council

Co-opted members, as necessary, in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities:

1. To have overall responsibility for monitoring and coordinating overview and scrutiny work across the authority.
2. To have responsibility for the review of the policy framework and development of policy and strategy not within the remit of other overview and scrutiny committees.
3. To consider call-ins in accordance the provisions of the Local Government Act 2000 and Overview & Scrutiny Procedure Rule 15.
4. To consider Councillor Calls for Action in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 and Overview & Scrutiny Procedure Rule 21.
5. In relation to crime and disorder:
 - (i) to consider all matters, not the responsibility of the Executive, relating to crime, disorder, anti-social behaviour and scrutiny of the Safer Communities Partnership Board in accordance with the provisions of the Police and Justice Act 2006.
 - (ii) to make recommendations to Council on the appointment of representatives to serve on the Barnet Community Safety Engagement Group and to receive regular reports as necessary from those representatives to highlight crime and disorder matters of public concern.
6. To receive, consider and allocate for action (if required) requests, reports and submissions from Council, the Executive, residents' forums, community and volunteer groups, partnership and outside bodies and other locally constituted groups.
7. To appoint scrutiny panels and task and finish groups needed to facilitate the overview and scrutiny function.
8. To coordinate and monitor the work of scrutiny panels and task and finish groups, including considering reports and recommendations and referring to the relevant decision-making body.
9. To review each year the operational and constitutional arrangements for overview and scrutiny make recommendations, as necessary, to the Special Committee (Constitution Review) and Council in accordance with the provisions of Overview & Scrutiny Procedure Rule 23.

10. To produce an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
11. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
12. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:-
 - The Council's leadership role in relation to diversity and inclusiveness; and
 - The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

Membership

10 Non-executive Members of the Council

Co-opted members, as necessary, in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities:

Budget and Performance

1. To scrutinise the overall performance, effectiveness and value for money of Council services, including the planning, implementation and outcomes of all corporate improvement strategies.
2. To scrutinise the Council's Information and Communications Technology systems including e-government, investment, implementation and service delivery.
3. To scrutinise the Council's annual budget process, reviewing and scrutinising its performance in relation to budget management, and assisting the Council in developing the three-year budget strategy.
4. To consider, consult upon, comment and, where appropriate, make recommendations to the Executive in respect of the proposed Council budget and Medium Term Financial Strategy.
5. To scrutinise the financial management of resources available to the Council including: property and asset acquisitions and disposals; reviewing the council-wide property and asset strategy; and the capital investment programme.
6. The effectiveness of the Council's partnerships (not within the remit of other overview and scrutiny committees) in furthering the Council's community and corporate plans, communication and public consultation including:
 - Local Strategic Partnership
 - Thematic Boards
 - Partnerships and sub-Partnerships
 - Relevant partner associations not covered by other stand alone committees

One Barnet

7. To perform the overview and scrutiny role in relation to the One Barnet transformation programme, particularly performance and financial issues.
8. To receive and consider options appraisals, business cases and closure reports for One Barnet projects.
9. To monitor the implementation of One Barnet projects throughout the programme lifecycle.

10. To engage with partner organisations, other relevant public sector bodies, private sector organisations, trade unions, local residents or any other appropriate witnesses when fulfilling the overview and scrutiny role in relation to the One Barnet programme.

The Barnet Group

11. To scrutinise the performance of The Barnet Group LTD and subsidiary companies, to include:
 - The Annual Report
 - The mid-year Performance Report
 - Pre-decision Scrutiny of other strategic documents as requested by the Committee.

Other Responsibilities

11. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
12. To contribute to producing an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
13. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:
 - The Council's leadership role in relation to diversity and inclusiveness; and
 - The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

Membership

10 Non-executive Members of the Council

Co-opted members, as necessary, in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities:

1. To scrutinise the Council and its partners in the discharge of statutory duties in relation to safeguarding.
2. To scrutinise Barnet's Safeguarding Children Board and any relevant Sub-Groups, including policies, procedures and performance through consideration of the Board's Annual Report.
3. To scrutinise Barnet's Safeguarding Adults Board and any relevant Sub-Groups, including policies, procedures and performance through consideration of the Board's Annual Report.
4. To scrutinise the provision of education (children and adults), special educational needs provision, and the protection and welfare of children.
5. To scrutinise the provision of adult social care services (including those who have physical disabilities, sensory impairment, learning disabilities, mental health needs or other special needs) to ensure that residents are safeguarded and supported to lead as independent lives as possible in their own homes.
6. To receive reports from Barnet's HealthWatch on safeguarding issues.
7. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
8. To contribute to producing an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
9. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:
 - The Council's leadership role in relation to diversity and inclusiveness; and
 - The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

Membership

10 Non-executive Members of the Council

Co-opted members, as necessary, in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities

1. To perform the overview and scrutiny role in relation to health issues which impact upon the residents of the London Borough of Barnet and the functions services and activities of the National Health Service (NHS) and NHS bodies located within the London Borough of Barnet and in other areas.
2. To make reports and recommendations to the Executive, Health and Well Being Board and/or other relevant authorities on health issues which affect or may affect the borough and its residents.
3. To receive, consider and respond to reports and consultations from the NHS Commissioning Board, , Barnet Clinical Commissioning Group, Barnet Health and Wellbeing Board and/or other health bodies.
4. To invite executive officers and other relevant personnel of the NHS Commissioning Board, Barnet Clinical Commissioning Group, Barnet Health and Wellbeing Board and/or other health bodies/partners to attend meetings of the Overview and Scrutiny Committee as appropriate.
5. To scrutinise and review promotion of effective partnerships between health and social care, and other health partnerships in the public, private and voluntary sectors.
6. To make recommendations as necessary to the Council for the formation of Joint Overview and Scrutiny Committees in accordance with the provisions of the Section 21 of the Local Government Act 2000 as amended by the Health and Social Care Act 2001 and Health and Social Care Act 2012.
7. To receive reports from Barnet's HealthWatch on health issues.
8. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
9. To contribute to producing an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
10. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:
 - The Council's leadership role in relation to diversity and inclusiveness; and

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

Proposed new Overview and Scrutiny Terms of reference

Contract Monitoring Overview and Scrutiny Sub-Committee

Membership

10 Non-executive Members of the Council

Co-opted members, as necessary, in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities:

14. To receive and scrutinise reports from the Commissioning Group detailing the performance against targets that are included within the Corporate Plan and otherwise relating to the services provided by the New Support & Customer Services Organisation, Development & Regulatory Services, The Barnet Group Ltd, Joint Legal Service (external delivery units) and NSL.
15. To receive and scrutinise reports from the Commissioning Group detailing the financial performance of the external delivery units against savings targets detailed in the Budget and Medium Term Financial Strategy.
16. To receive and scrutinise change requests and contract variations between the Council and external delivery units to include (but not be limited to) the introduction of new key performance indicators, delivery of new commissions via the external delivery units, changes required due to new legislation and commercial development opportunities.
17. To engage with partner organisations, other relevant public sector bodies, private sector organisations, trade unions, local residents or any other appropriate witnesses when fulfilling the overview and scrutiny role in relation to the monitoring of contracts for services provided by external delivery units.

Other Responsibilities

18. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
19. To contribute to producing an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
20. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:
 - The Council's leadership role in relation to diversity and inclusiveness; and
 - The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

Education Overview and Scrutiny Sub-Committee

Membership

10 Non-executive Members of the Council

Co-opted members as necessary in accordance with the provisions of Overview & Scrutiny Procedure Rule 3

Responsibilities

1. To scrutinise and monitor the Council and its partners in the discharge of statutory duties in relation to the provision of school places and education within the Borough and in particular to monitor the delivery of the Corporate Plan 2013/14 – 2015/16.
2. In relation to the functions set out in paragraph 1 above, to make reports and/or recommendations to the full Council, the Executive and/or any committee as appropriate in connection with the discharge of those functions.
3. To scrutinise and monitor the implementation of the Education Strategy for Barnet with the objective of maintaining high educational standards in Barnet's schools.
4. In relation to these terms of reference the Education Overview and Scrutiny Sub-committee may:
 - i. conduct research, community and other consultation as it deems appropriate in the analysis of school place planning and local education policy options;
 - ii. consider and make recommendations to the Executive on mechanisms to encourage and enhance community participation in the development of school place planning and local education policy options; and
 - iii. engage with local parents in championing and empowering them to support and challenge their school to improve continuously

Other Responsibilities

6. To ensure that overview and scrutiny in Barnet is reflective of Council priorities as evidenced by the Corporate Plan and the programme being followed by the Executive.
7. To contribute to producing an annual report on the overview and scrutiny function in Barnet in accordance with the provisions of Overview & Scrutiny Procedure Rule 7.
8. Additionally and insofar as relating to matters within its remit, to perform the overview and scrutiny role in relation to:
 - a) The Council's leadership role in relation to diversity and inclusiveness; and
 - b) The fulfilment of the Council's duties as employer including recruitment and retention, personnel, pensions and payroll services, staff development, equalities and health and safety.

Financial Regulations

1 Introduction

Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts—~~setting out the responsibilities of Council, Cabinet (and Cabinet Committees), the Chief Finance Officer (Deputy Chief Executive), Corporate Directors, Heads of Service and Managers.~~ These aspects are set out in Part 1 (Financial Management).

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

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

- ~~• Scheme of Delegation~~
- ~~• Budget & Policy Framework Procedure Rules~~
- ~~• Contract Procedure Rules~~
- ~~• Management of Real Estate, Property and Land~~

2 Status of Financial Regulations

Financial regulations apply to every member and officer of the authority and anyone acting on its behalf. All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.

~~The regulations identify the financial responsibilities of the Full Council, Executive and Scrutiny Committee members, the Chief Executive, the Monitoring Officer, the Chief Finance Officer and other Corporate Directors.~~

The responsibilities of the Chief Finance Officer are discharged by the Deputy Chief Executive. Thus this post is responsible for the proper administration of the Council's financial affairs for the purposes of Section 151 of the Local Government Act 1972 (and all subsequent amendments). This includes responsibility for producing and updating these Financial Regulations.

The Regulations shall not override any statutory provisions that apply.

Each Director is responsible for ensuring that these Regulations are strictly adhered to, throughout the department under their control.

Where applicable consultants or agencies acting for the Council will be bound by these procedures and it should be a condition of their employment or engagement that they do so.

Substantial breaches of Financial Regulations shall be reported to the Chief Finance Officer by the relevant Director 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.

~~As part of these Regulations, Corporate 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.~~

The Chief Financial Officer shall be responsible for ensuring the Council's continuing compliance with the Accounts and Audit Regulations 2003 and 2006 and all relevant Accounting Codes of Practice and Auditing Standards.

~~No report having financial implications shall be submitted to Members without adequately timed prior consultation with the Deputy Chief Executive and/or officers delegated to undertake such functions by him/her.~~

These procedures shall be reviewed regularly by the Chief Finance Officer but at least every 3 years. The Constitutional Committee should approve all amendments and summaries of changes resulting from reviews of codes of best practice, procedures or explanatory notes. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.

~~The Deputy Chief Executive is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to full Council for approval. The Deputy Chief Executive is also responsible for reporting, where appropriate, breaches of Financial Regulations to the Council and/or to the Executive.~~

Directors 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.

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.

3 Responsibilities

Section 151 of the Local Government Act 1972 states that each local authority "shall make arrangements for the proper administration of their financial affairs and shall

secure that one of their officers has responsibility for the administration of those affairs”.

The “arrangements” include the Council’s Financial Regulations, Contract Procedure Rules and the Scheme of Delegation (so far as it relates to financial matters). In approving those arrangements, Members are bound by the general principles of administrative law. The Council’s appointed officer under Section 151 is the Chief Operating Officer. In performing his/her functions as the appointed officer, he/she shall seek to ensure that the management of the Council’s financial affairs accord with the arrangements approved by Council subject to his overarching statutory duties including those referred to at paragraphs 2.5.7-10 below. The Section 151 officer owes a fiduciary duty to the public to carry out those duties effectively and these cannot be overridden by the Council.

Financial management covers all financial accountabilities in relation to the running of the authority, including the budget and policy framework.

~~The Full Council~~

~~The full Council is responsible for adopting the authority's constitution and members' code of conduct and for approving the budget and policy framework within which the Executive operates.~~

~~*Executive*~~

~~The Executive is responsible for the regulation and control of the finances of the Council. The Executive shall submit recommendations to the Full Council for the levying of general or special rates or taxes, or for the approval of annual estimates. The Executive is responsible for the approval of draft estimates for submission to the Full Council. It is also responsible for monitoring financial performance throughout the year.~~

~~The Executive discharges its responsibilities in relation to finance through Cabinet and the Cabinet Resources Committee. Throughout the year Cabinet Resources Committee receive reports which allow progress against approved budgets to be scrutinised. All members should receive appropriate training in the areas of Financial Strategy, Local Government Finance and key specialist areas such as Treasury and Risk Management.~~

~~*Committees*~~

~~Overview and Scrutiny committees have the remit to scrutinise any aspect of the finances of the Council. They monitor the decisions of the Executive and can challenge or ‘call in’ a decision that has been made by the Executive.~~

~~The Special Committee (Constitutional Review) is responsible for reviewing the Council’s constitution and related regulations, codes of conduct and other guidance including the Financial Regulations.~~

~~The Audit Committee is responsible for providing independent assurance of the risk management framework and the associated internal control environment, independent scrutiny of financial and non financial performance to the extent that it affects the authority’s exposure to risk and weakens the control environment, and to oversee the~~

~~financial reporting process. It has a specific responsibility to maintain an overview of the Council's constitution in respect of contract procedure rules and Financial Regulations.~~

The Statutory Officers

~~Chief Executive:~~

~~The Chief Executive is responsible for the corporate and overall strategic management of the Authority as a whole. He or she must report to and provide information for the Executive, the full Council, the Overview and Scrutiny committees and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the Authority.~~

The Director of Corporate Governance as the Monitoring Officer:

~~The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Executive, and for ensuring that procedures for recording and reporting key decisions are operating effectively. The Monitoring Officer is responsible for compliance with the Constitution~~

~~The Monitoring Officer is responsible for advising all members and officers about who has authority to take a particular decision.~~

~~The Monitoring Officer is responsible for advising the Executive and/or full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with, the Authority's budget and policy framework.~~

The Deputy Chief Executive, as Chief Financial Officer, is responsible for:

- ~~● The proper administration of the Authority's financial affairs.~~
- ~~● Setting and monitoring compliance with financial management standards.~~
- ~~● Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.~~
- ~~● Providing financial information.~~
- ~~● Preparing the revenue budget and capital programme.~~
- ~~● Treasury management and banking.~~

~~For the remainder of these Regulations, the term 'Chief Finance Officer' will be used in relation to the Deputy Chief Executive's specific responsibilities in relation to finance~~

~~Section 114 of the Local Government Finance Act 1988 requires the Chief Financial Officer to report to the full Council, Executive and external auditor, if the Authority or one of its officers:~~

- ~~● Has made, or is about to make, a decision which involves incurring unlawful expenditure.~~

- ~~Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority.~~
- ~~Is about to make an unlawful entry in the Authority's accounts.~~

Section 114 of the 1988 Act also requires:

- ~~The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.~~
- ~~The Authority to 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.~~

~~The Chartered Institute of Public Finance and Accountancy has issued a statement on the role of the Chief Financial Officer in Local Government [nb yet to be issued in final form as at 22 Feb]. CIPFA's statement says that the CFO is:~~

~~'the most senior finance professional within a local Authority, and 'is a key member of the Leadership Team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest; must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the organisation's financial strategy; and must lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively'~~

Other Council Officers

~~Chief Internal Auditor (for the purpose of these regulations, this title refers to the officer responsible for delivering an internal audit service in accordance with the CIPFA Code)~~

~~The Chief Internal Auditor is responsible for providing an internal audit function which meets the requirements of CIPFA's Code of Practice for Internal Audit in Local Government and 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 Financial 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.~~

Corporate Directors

~~Corporate Directors are responsible for ensuring that members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.~~

~~It is the responsibility of Corporate Directors to consult with the Chief Financial Officer and seek approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.~~

~~Each Corporate Director is responsible for observing the Council's Financial Regulations and for monitoring financial performance within their department.~~

~~Each Corporate Director is responsible for ensuring that any expenditure incurred within their service is in accordance with both the purpose and objectives of the services being provided and provides value for money. Expenditure must not be incurred or charged to any budget where such expenditure bears no relation to the service being provided.~~

~~Each Corporate Director is required to maintain a scheme of financial delegation in accordance with the minimum standards as determined by the Chief Finance Officer as Section 151 Officer or Nominated Deputy, and which accords to the financial limits included within the overall scheme of delegation and contract rules.~~

~~Each Corporate Director is responsible for the control and accountability of employees and the security, custody and control of all of the resources, including plant, buildings, materials, cash and stores, appertaining to his/her department~~

~~Each Corporate Director, or failing them, the Chief Finance Officer, shall report to Cabinet immediately where they are not complying with these Rules.~~

~~Council Corporate Directors Group~~

~~The Chief Executive and Corporate Directors who form the Council Corporate Directors Group, chaired by the Chief Executive, are responsible, individually and collectively, for ensuring that efficiency and value and value for money are achieved across the Council, in service delivery, internal processes and systems of control, procurement of goods/services and the use of assets.~~

~~As budget holders they are responsible for the budgets delegated to deliver the services within their Directorate in line with the priorities of the Council. Whilst they may delegate this responsibility within their Directorate they remain accountable in exercising overall financial control.~~

~~Heads of Service~~

~~Heads of Service are individually responsible for ensuring that the services within their remit are delivered in line with the agreed policy, and support the strategic direction of the Council. As Budget Holders they are responsible for the budgets delegated to them to deliver their service in line with the priorities within the Corporate Plan.~~

~~Heads of Finance/Finance Managers/Senior Management Accountants~~

~~The Heads of Finance advise Corporate Directors and their management teams on all financial matters. They are supported in this role by the finance managers and accountants, who are responsible for the preparation of budget reports and the~~

~~provision of specialist advice and general guidance on financial systems, including rules and procedures~~

~~However responsibility for budgetary control lies with the Corporate Directors as delegated budget holders, their Heads of Service and Service Managers.~~

Part 1 – Financial Management

Contents

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

1 MEDIUM TERM FINANCIAL STRATEGY

~~The Council's Constitution sets out how decisions are made including setting the Council Budget. Whilst the Council Budget sets out what those decisions are, the Medium Term Financial Strategy determines the underlying principles behind them and is key in driving the delivery of the Corporate Plan.~~

~~The Financial Forward Plan sits beneath the Medium Term Financial Strategy indicating future years' budgets and council tax levels. These indications are based on the current available information and provides the starting point for the following year's budget.~~

1.1 The Budget Strategy, approved by Cabinet, sets out the Executive's approach on a range of issues, including:-

- the way in which corporate service priorities are considered as part of the Council's capital and revenue budget processes;
- the level of balances and reserves (having taken account of advice from the Chief Financial Officer);

- the management of financial risks;

The setting of fees and charges and the Council's policies for the recovery of debt are separately approved by Cabinet and do not form part of the budget strategy.

~~The guiding principles for the Medium Term Financial Strategy are set out in a separate document.~~

- 1.2 The Annual Budget and Medium Term Financial Strategy will normally be approved by Cabinet at the start of each financial year.

2 MEDIUM TERM FINANCIAL STRATEGY

- 2.1 The Chief Financial Officer, in consultation with the Cabinet Member with responsibility for Resources, will maintain a Medium Term Financial Strategy that covers a period of at least four financial years, including the current financial year.

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

- 2.3 The Medium Term Financial Strategy will cover revenue and capital budgets, and will highlight how resources are being re-directed to address Corporate Plan priorities.

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

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

- 2.5 In respect to 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.

2.6 In that the Medium Term Financial Strategy has a four year horizon it is to be expected that figures in later years will often be preliminary estimates and/or aspirations of future decisions and changes in council policy.

3 ANNUAL BUDGET SETTING

3.1 The Executive will publish a draft budget ~~and performance management plans~~ for consultation.. Arrangements for budget consultation will be determined by the Executive.

3.2 The Chief Finance Officer will set the council taxbase for tax-setting purposes before 31 January of the preceding financial year, and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer will, at the same time, notify all Council Members.

3.3 The Executive will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in February, following announcement of the Final Local Government Finance Settlement.

3.4 The Executive's recommendations to Council must be made in time for Council to set the capital and revenue budget and council tax before 11 March of the preceding financial year.

3.5 The budget and capital programme that the Executive recommends to Council must be based on reasonable estimates of expenditure and income, and take account of:-

- outturn forecasts for the current year;
- guidance from the Chief Financial Officer on the appropriate level of reserves, balances and contingencies;
- financial risks associated with proposed budget developments, reductions and ongoing projects;
- forecasts of capital receipts;
- affordability of prudential borrowing over the period of the council's financial forward plan;
- recommendations from the external auditor on matters such as the level of reserves and provisions.

3.6 The budget recommended by the Executive will incorporate the latest projection of income from fees and charges.

3.7 Corporate Directors and Heads of Service may approve changes to fees and charges annually where the change is broadly in line with inflation. The date for annual increases need not be 1 April.

- 3.8 Cabinet Resources Committee must approve changes to fees and charges that are significantly different from inflation, the introduction of new fees and charges, and changes to fees and charges outside the normal annual cycle.

Alternative Budget Motions

- 3.9 Alternative budget motions must be validated by the Chief Finance Officer before they are accepted as a valid budget motion. This is essential since if an alternative budget motion is approved, the Chief Finance Officer will need to amend the council tax bills immediately following the Council meeting and Cabinet and officers will be required to implement the detailed budget proposals.
- 3.10 The alternative budget motion must set out the appropriate changes to Cabinet's recommendations as they affect the budget for the forthcoming year and any element of the Financial Forward Plan (e.g. balances, full year effects, council tax levels). The Chief Finance Officer may also require further information to be included if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.
- 3.11 Any Member proposing to put an alternative budget motion to Council is responsible for ensuring it is received by the Head of Governance in line with the deadline set out in Part 3, Section 1 of the Constitution. It is also their responsibility to ensure they give the Chief Finance Officer sufficient time to fully validate their alternative budget proposals.

Definition of Capital Expenditure

- ~~3.12 Section 16 of the Local Government Act 2003 and Regulation 25 of the Local Authorities (Capital Finance and Accounting)(England) Regulations 2003, provide a definition of capital expenditure.~~
- ~~3.13 Capital expenditure is principally in respect of acquiring, constructing or enhancing physical assets (including buildings, land and immovable equipment) which provide benefit over several years. In this instance, enhancement relates to works which are intended to lengthen the useful life of an asset, increase the open market value of the asset or substantially increase the extent to which an asset can be used in the delivery of services. Capital is also defined more widely for example expenditure on computer software and on the making of loans or grants for capital expenditure by another body.~~

4 BUDGET MANAGEMENT & MONITORING

Latest Approved Budget

- 4.1 The latest approved budget for a service or capital project is the budget determined by Council prior to the start of the year, as amended subsequently

by approved variations in budget and capital financing throughout the year in accordance with the “Scheme of Revenue and Capital Virement”.

4.2 The Chief Finance Officer is responsible for maintaining the latest approved budget and capital programme.

~~4.3 It is envisaged that the Scheme of Revenue and Capital Virement for revenue and capital budgets will be determined by the Leader as part of the scheme of delegation. If this is not done, the Chief Finance Officer must determine a scheme in consultation with the Cabinet Member for Resources.~~

Budget Monitoring – General

4.4 Directors, Assistant Directors, Commissioners and Heads of Service should ensure that their cost centre managers do not enter into commitments before satisfying themselves there is sufficient approved budget provision. Corporate Directors and Heads of Service have no authority to overspend revenue or capital budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.

4.5 Directors, Assistant Directors, Commissioners and Heads of Service are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur they should in the first instance be returned to central contingencies unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where these exceptions occur, the Directors, Assistant Directors, Commissioners and Heads of Service is responsible for notifying the Chief Finance Officer that this is to occur.

Directors, Assistant Directors, Commissioners and Heads of Service must notify the Chief Finance Officer of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income or capital resources have been identified.

Budget Monitoring – Revenue

4.6 Having notified the Chief Finance Officer of a forecast revenue budget overspend, the Director, Assistant Director, Commissioner or Head of Service must submit proposals to the Chief Finance Officer for offsetting the forecast overspend, together with an assessment of the impact these corrective actions will have on service delivery and performance targets. Approval to these budget variations will be in line with the Scheme of Virement (see Appendix A).

4.7 When notifying the Chief Finance Officer of such a situation, Directors, Assistant Directors, Commissioners and Heads of Service must advise if the problem relates solely to the current financial year or needs to be addressed within the financial forward plan as well.

4.8 Some services or projects within the Council’s budget and capital programme may be wholly or part funded by time-limited external funding. As soon as the possibility of expenditure slipping past the funding deadline is forecast, the cost

centre / project manager must notify the Chief Finance Officer immediately, and provide options for reducing expenditure and/or identifying alternative funding. It will not usually be the case that loss of external funding arising from expenditure slipping will be met from central resources.

Budget Monitoring – Capital

- 4.9 Forecast overspends on approved capital projects must be communicated to the Chief Financial Officer immediately
- 4.10 Having notified the Chief Finance Officer, the Director, Assistant Director, Commissioner or Head of Service must submit options to the Chief Finance Officer for offsetting the forecast overspend (e.g. by reducing the project specification, or budget for other projects) and/or identifying additional funding.
- 4.11 Due to the uncertainty around the generation and timing of capital receipts, and the impact that delays could have on the level of prudential borrowing, project managers must obtain the prior approval of the Chief Finance Officer before entering into any individual capital commitment on an approved capital project over £1m.

Central Contingency

- 4.12 The Chief Finance Officer will determine which budget developments are to be held within the central contingency.
- 4.13 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer, in consultation with the Cabinet Member for Resources, following the receipt from a Director, Assistant Director, Commissioner or Head of Service of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect, the contingency allocation must be approved by Cabinet Resources Committee.
- 4.14 Allocations from the central contingency for unplanned expenditure up to £250,000, including proposals to utilise underspends previously generated within the service and returned to central contingency, will be approved by the Chief Finance Officer in consultation with the Cabinet Member with responsibility for Resources. Where there are competing bids for use of underspends, additional income or windfalls previously returned to central contingency, priority will be given to the service(s) that generated that return.

- 4.15 Allocations for unplanned expenditure over £250,000 must be approved by Cabinet Resources Committee.

4.16 Reporting to Members

The Chief Finance Officer will report in detail to Cabinet Resources Committee at least four times a year on the revenue and capital budgets and wider financial standing.

- 4.17 Reports on the revenue budget will normally include:-

- (a) a revised forecast outturn including details as part of which, Corporate Directors will inform Cabinet Resources Committee:
 - i) of those cost centres for which they are responsible that are projecting net overspends or underspends either;
 - a) over £100,000 or
 - b) 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 or underspends are not realised.
- (b) 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.

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

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

Authorisation of Non-Budgeted Expenditure

4.19 In cases of urgency or emergency, the Chief Finance Officer may approve revenue or capital expenditure in excess of the latest approved budget.

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

- the expenditure is wholly reimbursable to the Council; or
- compensatory savings have been identified;

and

- there are no significant full year effects.

In all circumstances, the expenditure must be consistent with the Corporate Plan and key priority plans and should be reported to the next Cabinet meeting.

5 FURTHER RESPONSIBILITIES OF CORPORATE DIRECTORS AND HEADS OF SERVICE

Budget Monitoring

5.1 Directors, Assistant Directors, Commissioners and Heads of Service must establish arrangements for managing revenue and capital budgets within their services. These arrangements must include:-

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

External Funding

5.2 Directors, in consultation with the Chief Finance Officer, are encouraged to explore all feasible options that maximise external funding available to the Council. External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals, from either public or private sources. This may include lobbying Government with new funding proposals.

5.3 Directors, Assistant Directors, Commissioners and Heads of Service 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 Asset Management Strategy;
 - how the ongoing cost of maintaining the asset will be funded;
 - whether the asset can / will be disposed of at a later date.

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

5.5 Directors, Assistant Directors, Commissioners and Heads of Service must advise the Chief Finance Officer of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and 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.

5.6 Where external funding is applied for, it is the responsibility of the Director or Head of Service 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.

5.7 Directors, Assistant Directors and Commissioners and Heads of Service 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.

Full Year Effects

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

Control of Establishment Lists

~~5.9 Corporate Directors and Heads of Service are responsible for making arrangements to ensure control of the service HR Establishment list. In particular to ensure that proper controls are in place to ensure that the service HR structure is fully and accurately maintained in the Council's financial accounting system (SAP) and that a system of control is in place to ensure that no new posts are created without adequate resources being in place.~~

Impact on Other Services

- ~~5.10 Before a Director or Head of Service makes a decision that could affect the budget of another Director or Head of Service they must first consult with the other Director(s) or Head(s) of Service.~~

Annual Governance Statement

- 5.11 Directors, Assistant Directors, Commissioners and Heads of Service 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.

Partnership Working

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

General Requirements

- 5.13 Directors, Assistant Directors, Commissioners and Heads of Service must consult the Chief Finance Officer at an early stage on any current or future matter or decision that has financial implications that are not incorporated in the Financial Forward Plan or could impact on the Medium Term Financial Strategy.
- ~~5.14 Corporate Directors and Heads of Service must adhere to guidance issued by the Executive Director for Resources and Chief Finance Officer in respect to financial forward planning, budget setting, budget monitoring and closing of the accounts.~~

6 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS

- 6.1 The Chief Finance Officer is responsible for making arrangements for closing the accounts and producing the annual Statement of Accounts, as well as all matters relating to their audit and public inspection. Corporate Directors are responsible for ensuring that they and their staff adhere to the timetable and requirements set out by the Chief Finance Officer.
- 6.2 The Statement of Accounts will be prepared in accordance with the CIPFA Code of Accounting Practice, which includes the deadline for their production and the requirement to include an Annual Governance Statement (AGS).
- 6.3 Corporate Directors and Heads of Service must provide on time any information and evidence the Chief Finance Officer requires to close the accounts and complete all grant and subsidy claims.
- 6.4 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.

- 6.5 The Annual Audit Letter includes the external auditor's report and opinion on the audit of the accounts, as well as comments and recommendations on the Council's financial standing, the legality of financial transactions and internal control. This will be reported each year to the Audit Committee, together with an appropriate action plan.

7 TREASURY MANAGEMENT FRAMEWORK

- 7.1 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.

Adherence to Prudential Code

This organisation adopts the key recommendations of CIPFA's Treasury Management in the Public Services Code of Practice (the Code), as described in Section 4 of that code.

- 7.2 Cabinet Resources Committee will create and maintain a Treasury Management Policy Statement (TMPS), stating the policies and objectives of its treasury management activities.
- 7.3 The Chief Finance Officer will create and maintain suitable Treasury Management Practices (TMPs), setting out the manner in which the Authority will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

~~The content of the policy statement and TMPs will predominantly follow the recommendations contained in Section 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the organisation. Such amendments will not result in the authority materially deviating from the Code's key recommendations.~~

- 7.4 Cabinet Resources Committee will receive reports on its treasury management policies, practices and activities, including an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the TMPs. These reports will incorporate the prudential borrowing limits and performance indicators.
- 7.5 The Chief Finance Officer has the delegated authority to undertake long term borrowing on behalf of the Authority and will issue a Delegated Powers Report immediately after this power is exercised to inform Members.

This organisation delegates responsibility for the implementation and the monitoring of its treasury management policies and practices to the Executive and the updating of the Treasury Management Practices, and for the execution and administration of treasury management decisions to the Chief Financial Officer, who will act in accordance with the organisation's policy statement and

8 PENSION FUND MANAGEMENT

8.1 The Pensions Manager is responsible 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);
- determining that late applications to convert scheme AVCs into a membership credit will be accepted provided such a late claim is not made within one year of attaining NRD or six months after leaving service whichever is the later (Regulation 26 of the Administration Regulations).
- determining (for Barnet Council Employees only) whether to accept any request for the inwards transfer of pension rights made more than 12 months after the member joined the Scheme (Regulation 83 of the Administration Regulations).
- determining (for Barnet Council employees only) whether to accept any request
- for joining previous Scheme membership (either with this Employer and/or with another scheme employer) made more than 12 months after the member rejoined the Scheme (Regulation 16 of the Administration Regulations).
- exercising absolute discretion in determining the recipient(s) of any death grant payable from the Scheme (Regulations 23, 32 and 35 of the Benefits Regulations);
- deciding whether to treat education or training as continuous despite a break for the purpose of determining eligibility for a child's pension (Regulation 26 of the Benefits Regulations);
- communicating with other employers that are scheduled or admitted bodies as appropriate

Part 2 – Financial Administration

Contents

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

1 INTRODUCTION

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

2 ACCOUNTING

- 2.1 All accounting arrangements across the council shall be in a manner approved by the Chief Finance Officer, taking into account best practice guidance issued

by relevant external bodies, such as CIPFA and the Audit Commission.

- 2.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 2.3 All accounting should occur on SAP and any exceptions must be specifically authorised by the Chief Finance Officer.

3 INTERNAL AUDIT

- 3.1 Under the Accounts and Audit Regulations 2006 the Council has a statutory obligation to have an adequate and effective system of internal audit. The Chief Internal Auditor has the delegated authority for providing and maintaining this service.
- 3.2 The Chief Internal Auditor is responsible for providing an internal audit function which meets the requirements of CIPFA's Code of Practice for Internal Audit in Local Government and 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 Financial 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.
- 3.3 Internal Audit is an assurance function that provides 'an independent and objective opinion to the council on the control environment, by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources'. *CIPFA 2006*
- 3.4 Management (Directors, Assistant Directors, and Heads of Service)) 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
- 3.5 Internal Audit has unrestricted access to all information (including records, computer files, property and personnel) and activities undertaken by the Council, in order to review, appraise and report on:-

- the adequacy and effectiveness of the systems of financial, operational and management control and their operation in practice in relation to the business risks to be addressed;
- the extent of compliance with, relevance of, and financial effect of, policies, standards, plans and procedures established by the Council and service management and the extent of compliance with legislation and regulations, including reporting requirements of regulatory bodies;
- the extent to which the assets and interests are acquired economically, used efficiently, accounted for and safeguarded from losses of all kinds arising from waste, extravagance, inefficient administration, poor value for money, fraud or other cause and that adequate business continuity and risk management strategies exist;
- the suitability, accuracy, reliability and integrity of financial and other management information and the means used to identify, measure, classify and report such information;
- the integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of all kinds; and that the process aligns with the Council's strategic goals;
- the suitability of the organisation of the units audited for carrying out their functions, to ensure that services are provided in a way which is economical, efficient and effective;
- the follow-up action taken to remedy weaknesses identified by Internal Audit review, ensuring that good practice is identified and communicated widely;
- the operation of the Council's Governance arrangements.

Independence

- 3.6 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.

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.

- 3.7 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 Head of Internal Audit 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.

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

Responsibility & Authority

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

3.10 The purpose, scope, authority and responsibility of the internal auditing service is defined in a formal charter. The charter makes clear the independence of the internal auditing service and emphasises that it must not be restricted when carrying out its responsibilities.

3.11 Any suspected irregularity involving any asset, or the exercise of any function, of the Council must be reported by the appropriate Chief Officer to the Chief Internal Auditor to inform the overall assurance that can be delivered and to the Corporate Anti Fraud Team (CAFT) Manager for investigation. Primary responsibility for the prevention, detection and initial investigation of fraud lies with line management.

3.12 The Chief Internal Auditor and Chief Finance Officer, CAFT Manager or authorised representative, shall have authority to:-

- enter any Council land or premises;
- have access to all records, documents, correspondence and assets of the Council;
- receive such explanations as are necessary concerning any matter under examination, and
- require any employee of the Council to produce cash, stores or any other Council property under his or her control

3.13 The Council's Chief Officers shall have regard to the principles of risk management, and to the Council's risk management policy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the council's arrangements for risk management.

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

Ethical Governance

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

4 CORPORATE ANTI-FRAUD TEAM

- 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 Chief Monitoring Officer has the delegated authority for providing and maintaining this service.
- 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.

Objective & Scope

- 4.3 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 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 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 systems for accurate reporting of any such fraud (including "Whistleblowing" and a "Fraud Hotline")
 - create and promote policies, plans, procedures, law, regulations and guidance which have a significant impact on the organisation;
 - provide an effective, efficient and value for money investigation service;
 - provide the organisation, its employees and business partners with a comprehensive guide in relevant areas such as fraud, corruption, bribery and anti money laundering and other legislation relating to the proceeds of crime.

Independence

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

Responsibility & Authority

- 4.7 The primary responsibility for the awareness, prevention detection and deterrence of fraud, corruption, bribery or money laundering activity lies with 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.
- 4.8 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 either the Chief Monitoring Officer, the Assistant Director of Operational Assurance, , the Head of Audit and Anti Fraud or any member of the CAFT.
- 4.9 The Chief Monitoring Officer will nominate an officer to undertake the duties of the Council's Money Laundering Reporting Officer as detailed within the Council's Anti Money Laundering Policy Statement and procedure.
- 4.10 The Assistant Director of Operational Assurance is the designated Whistleblowing officer for the London Borough of Barnet and shall undertake the responsibilities of the role as described within the Council's Whistleblowing Policy.
- 4.11 The CAFT Counter Fraud Manager – Benefit Fraud is the officers authorised to carry out the duties designated by the Secretary of State under the provisions of the Social Security & Administration Act 2001 to act as the Authorised Officer in the obtaining of data prescribed within the Act which may otherwise be protected, in connection with the prevention and/or detection of a crime.
- 4.12 The Assistant Director of Operational Assurance is designated as the London Borough of Barnet's 'Senior Appropriate Officers' for the authorisation of production orders, restraint orders, customer information orders and account monitoring orders as described within the Proceeds of Crime Act 2000
- 4.13 The Assistant Director of Operational Assurance, Head of Audit and Anti Fraud and or the CAFT Counter Fraud Managers are the London Borough of Barnet responsible officers for the authorisation of arrest and/or prosecution of offenders including deciding on any appropriate sanction action available within the law. Those officers are responsible for ensuring that all CAFT investigations are conducted in accordance with the Criminal Procedures & Investigations Act 1996 (CPIA) the Police & Criminal Evidence Act 1984 (PACE) and the Human Rights Act 2000.
- 4.14 The Council's Senior Responsible Officer in relation to the Regulation of Investigatory Powers Act 2000 (RIPA) has been designated as the Chief Monitoring Officer. The Assistant Director of Operational Assurance and the CAFT Counter-Fraud Managers are the designated officers for the authorisation of directed surveillance and use of Covert Human Intelligence Source (CHIS) as defined within the Regulation of Investigatory Powers Act 2000 (RIPA).. All investigating officers

granted authorisation to carry out directed surveillance or use of a covert human intelligence source by a designated officer of the Council are authorised to appear before the Magistrates Court on behalf of the Council to apply for judicial approval in accordance with the requirements of sections 37 and 38 of the Protection of Freedoms Act 2012

4.15 The Section 151 Officer, or other authorised representative such as the Chief Monitoring Officer. The Assistant Director of Operational Assurance, The Head of Audit and Anti Fraud and all CAFT Investigation Officers shall have authority to:

- Enter or visit any land, premises, offices or establishments of the Council; and carry out any necessary searches of the aforementioned.
- have unrestricted access to, search, and remove any and all records, documents and correspondence, including electronically held correspondence, documents and records, and property and assets of the Council;
- 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 interviews in accordance with the Police & Criminal Evidence Act (on tape).

~~4.12 The Deputy Director of Corporate Governance, Chief Internal Auditor, the CAFT Manager, the Chief Finance Officer, 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 access to, search, and remove any and all records, documents and correspondence, including electronically held correspondence, documents and records, and property and assets of the Council;~~
- ~~• receive such explanations as are necessary concerning any matter under examination, and / or fraud 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 individuals in connection with investigations including interviews in accordance with the Police & Criminal Evidence Act (on tape).~~

5 RISK MANAGEMENT

- ~~5.1 Sound governance requires effective and efficient management of risk, covering all forms of risk, not just financial.~~
- ~~5.2 The process of identifying risks should demonstrate a direct link to the Corporate Objectives.~~
- ~~5.3 Risks are assessed using the matrix scoring system which rates each risk as having a high, medium or low likelihood of occurring and a high, medium or low impact on the ability to deliver against the Corporate Objectives.~~
- ~~5.4 All risks should be monitored and re-assessed based on the actions and activities that either mitigate the risk or have had an impact on the risk objective that has either increased or decreased the likelihood or impact.~~
- ~~5.5 The process of re-assessing the risk is conducted by the "lead officer" who is identified in the risk log, and accepted by the Director or Head of Service.~~
- ~~5.6 The approach to risk management within Barnet is that Corporate Directors and Heads of Service are responsible for ensuring their service has a robust and efficient method of managing risk.~~
- ~~5.7 It is the responsibility of Corporate Directors and Heads of Service to ensure that risks are identified in their Key Priority Plans and Service Plans and are reviewed on a regular basis. Corporate Directors & Heads of Services are responsible for taking action to mitigate against the risk or to develop contingencies to be introduced should the risk materialise.~~
- ~~5.8 The Risk Management Strategy and operational policies and procedures should be reviewed and refreshed annually by the Head of Risk and Insurance to ensure a consistent approach to the identification, mitigation and monitoring of risk across the Authority.~~

6 BANKING ARRANGEMENTS

- 6.1 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.
- 6.2 The Chief Finance Officer will maintain a register of all bank and card acquiring contracts.
- 6.3 Cheques drawn on the Council's main bank accounts shall be authorised by the pre-printed title "Chief Finance Officer, London Borough of Barnet".
- 6.4 Cheques above certain financial limits set by the Chief Financial Officer shall be manually countersigned by those designated officers authorised to do so by the Chief Finance Officer.

- 6.5 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.

7 SECURITY OF ASSETS

General

- 7.1 Corporate Directors and Heads of Service are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.
- 7.2 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.
- ~~7.3 All keys to safes and the like items shall be carried on the person of the officer responsible. Corporate Directors and Heads of Service shall keep a record of key holders. Any loss of keys must be reported to the Director or Head of Service.~~
- ~~7.4 Corporate Directors and Heads of Service are responsible for the proper security and privacy of all information held in computer systems under their control, for ensuring that these systems can only be accessed by authorised personnel and that adequate controls exist to ensure the separation of duties.~~
- ~~7.5 Corporate Directors and Heads of Service are responsible for undertaking a risk assessment of all assets considered crucial to the delivery of the service. The risk assessment should cover the loss of the asset caused by malfunction and the possibility of restricted access caused by an emergency crisis and the mitigating actions and contingency plans that will need to be developed to support business continuity.~~

Land & Property

- ~~7.6 The Head of Property Services shall maintain an asset register of all properties owned by the Council (except houses and flats provided under the Housing Acts) with these assets valued on a five year cycle.~~
- ~~7.7 The asset register will show the service user of the property and link to a database of details of interest and rents payable and tenancies granted.~~
- ~~7.8 The Acting Head of Legal shall have secure custody of title deeds and maintain an indexed register of those titles (terrier). The Geographic Information Services Manager will maintain a digital map of the extents of the titles.~~

Other Assets

- ~~7.9 Corporate Directors and Heads of Service must maintain inventories of all assets employed in their service, and make arrangements for these to be checked at least annually.~~

- ~~7.10 Any surpluses/deficits in excess of a figure set by the Chief Finance Officer shall be reported to him/her. The Chief Finance Officer shall agree the action to be taken in relation to these differences, including, if necessary reporting to the Cabinet Meeting or Cabinet Committee.~~
- ~~7.11 Council assets may only be used for Council business, and may only be removed from Council premises with the consent of the Director or Head of Service. The officer removing the asset then becomes responsible for the safekeeping of the asset.~~
- ~~7.12 All Council assets shall, wherever possible, be security marked.~~
- 7.13 Corporate Directors and Heads of Service are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals in excess of £6,000 (or a higher figure that is consistent with capital accounting regulations) are to be notified to the Chief Financial Officer.
- 7.14 The Council has set a *de minimis* threshold for capital expenditure at £10,000. This figure provides guidance only; the Chief Finance Officer may exercise discretion on the *de minimis* threshold.

Stocks & Stores

- ~~7.15 Corporate Directors and Heads of Service are responsible for the safekeeping of stocks and stores held, ensuring no deterioration or damage occurs whilst held and not allowing levels held to exceed a reasonable level. All records, returns and accounts shall be held in a form approved by the Chief Finance Officer and returns will be submitted as and when required.~~
- ~~7.16 Stores shall only be issued against properly authorised requisition notes, which shall be receipted by the person collecting the goods.~~
- ~~7.17 Unused items returned to stores shall be recorded on a stores return note.~~
- ~~7.18 The condition of stocks shall be checked on a regular basis by the Officer responsible for them. Decisions regarding stock that has become obsolete should be made against clearly defined criteria and options for the most cost effective disposal of that stock must be identified.~~
- ~~7.19 Corporate Directors and Heads of Service must ensure that items classified as stock are checked at least once each financial year.~~
- ~~7.20 All surpluses or deficits identified during stock takes shall be entered onto an adjustment record and the appropriate Director or Head of Service, with the agreement of the Chief Finance Officer, may write off deficiencies or bring surpluses into account. Wherever possible all stock considered for writing off should first be offered for sale. A record of all write-offs and disposals must be maintained. Specialist items such as hazardous chemicals must be disposed of in accordance with relevant safety procedures.~~
- ~~7.21 Stock balances must be valued in accordance with the relevant accounting standards, i.e. where applicable lower of historical cost or net realisable value.~~

7.22 ~~The Chief Finance Officer or authorised representative may have access to all stock and stores and may make such checks as thought necessary.~~

8 IMPREST ACCOUNTS

8.1 The Chief Financial Officer must authorise all imprest accounts.

8.2 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 should be proper VAT receipts wherever possible;
- properly account for VAT in all float reimbursements;
- not allow the account to be overdrawn and shall arrange for reimbursement at regular intervals;
- not pay any salaries, 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.

9 INCOME

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

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

9.3 Officers responsible for controlled stationery must keep it secure.

9.4 Methods of payment must be agreed by the Chief Finance Officer.

9.5 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 Strategy.

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

9.7 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.

9.8 No deductions may be made from monies received.

- 9.9 Heads of Service must notify the Chief Finance Officer of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.

Invoicing & Debt Recovery

- 9.10 Officers responsible for raising invoices must ensure that VAT has been properly accounted for. ~~They must also ensure debt is recorded in a format approved by the Chief Finance Officer, in accordance with the Debt Management Strategy.~~
- 9.11 ~~As set out in the Debt Management Strategy, officers responsible for the collection of amounts invoiced should only put forward amounts for write-off after all appropriate steps to recover the debts have been exhausted.~~
- 9.12 ~~A review of every debt should be undertaken at least quarterly, in accordance with the Debt Management Strategy.~~

10 INSURANCE

- 10.1 The Chief Financial Officer is responsible for maintaining the Insurance Strategy arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered.
- 10.2 Corporate Directors and Heads of Service must notify the Chief Finance Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 10.3 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.
- 10.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Acting Head of Legal and/or the insurance company if proceedings are issued.
- 10.5 Officers must consult the Chief Finance Officer and Acting Head of Legal in all cases where the Council is requested to give an indemnity.
- 10.6 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.

Schools

- 10.7 ~~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.~~

~~10.8 — It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance must not be funded from the school budget share. The school should seek the Authority's advice before finalising any insurance arrangement for community facilities.~~

~~10.9 — The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could not be charged to the school's budget share.~~

11. INVESTMENTS, BORROWING, CAPITAL FINANCING & TRUST ACCOUNTS.

- ~~11.1~~ All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or in the name of nominees approved at a cabinet meeting or by a cabinet committee. ~~In order to maximise the return on temporary surplus cash balances and minimise the cost of short term borrowing, the Council employs a policy of "Treasury Management". The Council has adopted the CIPFA Code of Practice on Treasury Management in Local Authorities.~~
- 11.2 All securities shall be held securely by the Council's bankers, the Chief Financial Officer or custodians approved at a cabinet meeting or by a cabinet committee.
- 11.3 The Chief Finance Officer shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.
- 11.4 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. The Chief Finance Officer will also provide regular monitoring reports to cabinet committee and report any breaches or amendments of the code to Council.
- 11.5 The key objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plan of the local authorities are affordable, prudent, sustainable and in accordance with good professional practice – or, in exceptional cases, to demonstrate that there is a danger of not ensuring this, so that the authority can take timely remedial action.
- 11.6 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.
- 11.7 The Chief Finance Officer shall ensure that all legislative amendments and changes in treasury or capital limits are approved at a cabinet meeting or by a cabinet committee and where necessary full Council.
- ~~11.8 The Chief Finance Officer will be responsible for adopting the changes outlined in 10.6 and ensuring compliance with any amended practices or limits.~~

12 ORDERING OF SUPPLIES, WORKS & SERVICES

Procurement of supplies, works and services must be in accordance with Contract Procedure Rules and Procurement Code of Practice. It is a disciplinary offence to fail to comply with Contract Procedure Rules and the Procurement Code of Practice when letting contracts. Council employees have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Chief Internal Auditor. 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.

12.1 With respect to third party organisations, suppliers should not be awarded business in excess of 25% of their turnover. Where the supplier is a consortium, the relevant figure is the combined turnover of the consortium's constituent members.

~~12.2 Where it is in the interests of the Council, this threshold may be waived by the service director in consultation with the relevant Cabinet Member and Chief Financial Officer.~~

Corporate Directors and Heads of Service Directors and Heads of Service 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 and the Procurement Code of Practice

12.3 They 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. ~~Any procurement activity must follow the relevant steps prior to raising a purchase order.~~

~~12.4 **Supplier Selection** : The authorised officer may contact the supplier(s) by phone and verbally request a quotation but the quotation should be provided in writing or by e-mail. There should be clarity about the requirements and what is expected to be achieved by this purchase. **Value for money** must be established and this is best achieved by obtaining more than one quotation as is indicated in the Contract Procedure Rules in the section of Selecting Contractors.~~

~~12.5 **Quote / Tender evaluation** : Contract Procedure Rules require that all tenders are considered on the basis of the most economically advantageous tender (MEAT) taking into consideration price including payment terms and payment method, quality, durability and other relevant issues. Following receipt, check that it is arithmetically correct and that the requirements have been fully met. The reasons for accepting the quotation must be recorded and agreed with the cost centre manager, providing an audit trail should any queries be raised in the future. If the vendor doesn't exist on SAP, then a new vendor request must be sent to the Corporate Procurement Team (CPT). In addition, Corporate Directors and Heads of Service should explore the possibility of early payment discounts with all suppliers of supplies, works and services. This must be done within the context of the overall Procurement Strategy.~~

12.6 **Creation of a purchase Order (PO)** : Once the purchase has been agreed, a purchase order must be raised on SAP. **Payment of an invoice** : Authorised officers must ensure that a purchase order has been raised on the SAP system and successfully communicated to the supplier. Invoices in respect to works, supplies and services will be paid by the Central Accounts Team, but only after the authorising officer has, where necessary, first receipted the supply on SAP.

- 12.7 All invoices must reference a valid purchase order number, otherwise the Central Accounts Payable Team reserves the right to refuse payment of an invoice.
- 12.8 Only invoices presented in an acceptable format will be passed for payment. This includes invoices that do not comply with VAT Regulations.
- 12.9 To enable the Council to comply with the Late Payment of Commercial Debts Act, no amended invoices will be accepted. Heads of Service must:-
- return an invoice to the supplier and seek a new invoice with a revised date, whenever:-
 - the invoice is dated prior to receipt of 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.
- 12.10 When certifying an invoice for payment that was initially disputed, record the date on which the invoice was actually validated.
- 12.11 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.
- 12.12 Payments in advance** : Corporate Directors and Heads of Service, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to the Chief Financial Officer.

13 SALARIES, PENSIONS & ALLOWANCES

- ~~13.1 All appointments shall be made in accordance with the Council's contractual terms and conditions (i.e. pay, grading, allowances etc).~~
- 13.2 The ~~Head of HR Shared Services~~ will ensure that arrangements are made to calculate and pay all remuneration, pensions, compensation and other payments to current and former employees and for maintaining salary payroll for Schools that purchase the Traded Service.
- ~~13.3 School Governing Bodies shall be responsible for assessing teachers' remuneration and the Head of HR Shared Services shall maintain teachers' salary and pensions for Schools that purchase the Traded Service.~~
- ~~13.3 Corporate Directors and Heads of Service must provide to the Head of HR Shared Services:-~~

- ~~the names and specimen signatures of all officers authorised to sign HR records;~~
- ~~relevant details of appointments, leavers and any other change of circumstances that may affect payment;~~
- ~~details of all work related absences due to sickness, accidents on or off duty;~~
- ~~details of special leave without pay or other paid/unpaid leave or absence;~~
- ~~when required, overtime and certified time sheets for staff paid at hourly or weekly rates, at intervals and in the format determined by the Head of HR Shared Services.~~

~~13.4 On an annual basis, the Head of HR shall require that each pensioner residing overseas provides a life certificate.~~

~~13.5 Salaries and wages will be paid direct to the employee's bank account. Pensions and gratuities shall be at the discretion of the Head of HR Strategy. All payments shall be made direct to the person concerned unless that person authorises otherwise.~~

~~13.6 Payment will be paid on contractual dates. The Head of HR Shared Services has the discretion to change payment date.~~

~~13.7 All cost centre managers should use SAP to periodically verify correct payments to staff.~~

~~13.8 All claims for payment of car allowances shall be approved through SAP self service or through a paper format approved by the Head of HR Strategy. The names of certifying officers and specimens of their signatures shall be forwarded by Corporate Directors and Heads of Service to the Head of HR Shared Services. The certifying officer must be satisfied that all expenses claims are valid and that the allowances should be paid by the Council before authorising the payment.~~

~~13.9 The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form.~~

~~13.10 The Director of Corporate Governance is responsible for notifying the Heads of HR of any changes to Members' Allowances.~~

~~13.11 Employees are responsible for providing HR Shared Services with accurate personal details including bank account details.~~

~~13.12 In accordance with procedures agreed by Audit, the Pension Manager can write off debts resulting from overpayment of pension to a maximum of £500 per debtor and a total of £5,000 per year.~~

14 AMENITY & UNOFFICIAL FUNDS

- 14.1 Amenity or Unofficial Fund relates to all sums of money other than those which are required to be paid into the Council's General Account (or such other account so authorised by the Chief Finance Officer) or Trust Fund monies outside the authority of the Council.
- 14.2 All accounts shall be opened by the Chief Finance Officer and their names shall include the name of the Borough and the establishment concerned.
- 14.3 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.
- 14.4 The head of each establishment which sets up such a fund shall inform the relevant Head of Service of its existence ~~(and the Governing Body in the case of schools without delegated budgets).~~
- 14.5 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.
- 14.6 Expenditure from the fund shall be at the discretion of the establishment head in conjunction with other member(s) of staff as felt necessary.
- 14.7 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.
- 14.8 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 Financial Officer shall have the right to inspect the accounts.
- 14.9 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).

Scheme of Virement

Revenue Virement Arrangements

- a) ~~No revenue virement is allowed from or to any of the following budgets without approval of the Cabinet or Cabinet Resources Committee~~
- ~~• Financing charges~~
 - ~~• Rates and other taxes~~
 - ~~• Recharges~~
 - ~~• Insurances~~
 - ~~• Contingent budgets for amounts over £250,000 (as determined by the Deputy Chief Executive in consultation with the appropriate Corporate Director).~~
- b) ~~Cabinet Member agreement will be required for proposals which transfer funds for the creation of new staff posts~~
- c) ~~Cabinet or Cabinet Resources Committee approval will be required for proposals which:~~
- ~~— would cause the total budget head to be exceeded in the current year or increase the commitment in future years~~
 - ~~— are to be financed from savings arising from competitive tendering.~~
- d) ~~Revenue virement will be allowed between service directorates and employee and non-employee expenditure as follows:~~
- ~~i on the approval of the appropriate Corporate Director for sums up to £50,000~~
 - ~~ii on the approval of the appropriate Cabinet Member for sums in excess of £50,000 and up to £250,000~~
 - ~~iii on the approval of the Cabinet or Cabinet Resources Committee for sums in excess of £250,000 and up to £2,500,000~~
 - ~~iv on the approval of the full Council for the lower of 10% of the net service directorate budget or sums above £2,500,000~~
- e) ~~Revenue virements actioned by a Corporate Director shall be included on the next quarterly monitoring report to the appropriate Cabinet or Cabinet Resources Committee meeting and notified to the Chief Finance Officer~~

Notification to Deputy Chief Executive

~~Please ensure that your Head of Finance is informed of all virement approvals granted.~~

Capital Budget and Funding Virement Arrangements

- g) ~~Cabinet or Cabinet Resources Committee approval is required for all capital budget and funding virements and yearly profile changes (slippage) between approved capital programmes i.e. as per the budget book. The report must show the proposed:~~
- ~~i — budget transfers between projects and by year~~
 - ~~ii — funding transfers between projects and by year and~~
 - ~~iii — a summary based on a template approved by the Chief Finance Officer~~
- h) ~~Funding substitutions at year end in order to maximise funding are the responsibility of the Chief Finance Officer.~~

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Contract Procedure Rules

Version: Final v1.0

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CONTENTS

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

1 INTRODUCTION

- 1.1 Procurement decisions are among the most important decisions a manager makes because the money involved is public money and the Council is concerned to ensure that as a minimum high quality supplies, works and services are provided in a timely manner. Effective and efficient use of resources in order to achieve best value is a legislative duty. The Council's reputation is also important and should be safeguarded from any suggestion of dishonesty, corruption or failure to meet legal responsibilities.
- 1.2 Any Procurement activity must comply with the Contract Procedure Rules, Council policy, Constitution and English law. 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 and the Chief Internal Auditor.
- 1.3 All Procurement must be undertaken with regard to high standards of probity. The Council has a commitment to transparency and it is important that the procurement process is as transparent and open as possible.

2 APPLICATION

- 2.1 The Contract Procedure Rules provide the governance structure within which the Council may procure works, supplies and services. The aims of these rules are to:
 - ensure value for money and propriety in the spending of public money;
 - enable works, supplies and services to be delivered effectively and efficiently without compromising the Council's ability to influence strategic decisions;
 - ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity; and
 - ensure compliance with current legislation, update all appropriate guidance notes, tools and templates and follow Procurement Policy Notes (PPN) issued by Cabinet Office
- 2.2 The Cabinet Resources Committee may, from time to time, recommend to the Constitution, Ethics and Probity Committee and Council that the thresholds as set out in these rules be amended.
- 2.3 Reference must be made to any approved Scheme of Delegation with regard to identifying any manager with the right to undertake Procurement as delegated by their Director, Assistant Director, Lead Commissioner or Head of Service. Schemes of Delegation will be maintained by the relevant Director, Assistant Director or Lead Commissioner and will be published on the Council's website.
- 2.4 Reference must be made to the Procurement Code of Practice for more detailed explanation of Procurement procedures, processes, associated Council policies, and required contract terms. Further detailed guidance can be provided by Central Procurement.

- 2.5 All officers should undertake Procurement in a manner which avoids any potential conflicts of interest and should follow the procedure as set out in the Staff Code of Conduct.
- 2.6 The Commercial Lead in consultation with the Chief Operating Officer shall maintain and issue the Contract Procedure Rules and the Procurement Code of Practice.
- 2.7 Unless the context otherwise requires, terms used in these Contract Procedure Rules shall have the meanings ascribed to them as set out in the Definitions section 16 of these rules.
- 2.8 The Contract Procedure Rules take precedence over the Procurement Code of Practice.

3 SCOPE

- 3.1 The Contract Procedure Rules are applicable to all Procurement activities, including where funding such as grant allocation is received by the Council from external sources, as defined in Section 16 Definitions of these Contract Procedure Rules.
- 3.2 The Contract Procedure Rules are not applicable to Non-Procurement activities as defined in Section 16 Definitions of these Contract Procedure Rules or the activities defined in the Exemptions List as approved by the Commercial Lead. The exemptions list will be published alongside the Contract Procedure Rules. Payments to Third Parties for Exempted services shall be subject to a dual authorisation process where both Finance and Central Procurement approve individual payments.
- 3.3 Where the Council is entering into a contract as an agent and or in collaboration with another public body or organisation, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as principal the Contract Procedure Rules will take precedence.
- 3.4 Where the Council's schools have to abide by the Scheme for Financing Schools which requires them to follow Contract Standing Orders (CSO) for Schools, then the CSO for Schools shall take precedence over the Contract Procedure Rules.
- 3.5 Any interest in land, transaction in land and or lease transaction is excluded from the Contract Procedure Rules but must be authorised in accordance with the requirements set out in the Constitution and, specifically, the Management of Real Estate, Property and Land Rules.

4 REGULATION & LEGISLATION

- 4.1 Central Procurement is responsible for ensuring Council awareness and compliance with the requirements of all relevant legislation. Any significant changes to existing legislation and/or new legislation will be updated in the Code of Practice.
- 4.2 The Code of Practice will be regularly reviewed and updated by Central Procurement with any significant changes referred to the Constitution, Ethics and Probity Committee in accordance with paragraph 2.6.

5 ROLES AND RESPONSIBILITIES

Directors, Assistant Directors, Lead Commissioners and Heads of Service are accountable for all Procurements in their respective Delivery Units/area of responsibility. Their duties in relation to all Procurements and contract management are to:

- 5.1 ensure compliance with English law, Council policy, Contract Procedure Rules and the Procurement Code of Practice;
- 5.2 identify, deliver, measure and record value for money;
- 5.3 ensure that a pre-tender estimate of anticipated costs, as calculated in accordance with Section 6 (Contract Value Calculation) of these Contract Procedure Rules, is prepared, is in budget and recorded in writing;
- 5.4 identify, evaluate, record and appropriately mitigate risk e.g. provision of performance bond or parent company guarantee;
- 5.5 maintain a Scheme of Delegation, in accordance with Constitutional requirements;
- 5.6 ensure that all appropriate staff comply with the provisions of the Contract Procedure Rules and the Procurement Code of Practice and have attended Central Procurement approved training before undertaking procurement and contract management activities;
- 5.7 take immediate action in the event of a breach of the Contract Procedure Rules or Procurement Code of Practice within their area of responsibility;
- 5.8 ensure that all existing and new contracts above the published limits and planned during the forthcoming financial year are clearly identified in their Budget and Procurement Forward Plan;
- 5.9 ensure that contract terms and conditions to be used in a Procurement have been approved by HB Public Law (Joint Legal Service);
- 5.10 ensure an original signed contract is provided to the Deed Officer and a digital copy of the signed version, together with Acceptance approval documents and any waiver of these Contract Procedure Rules are placed on the Council's contract repository;
- 5.11 ensure that proper records of all contracts, tenders etc. including minutes of tender evaluation panels and other meetings are kept on the Council's approved Electronic Procurement Portal, which may be inspected and kept for the period specified in the Council's Records Retention and Disposal Policy
- 5.12 ensure that the appropriate Procurement Method as set out in Section 8 of these Contract Procedure Rules is followed;
- 5.13 keep a register of all contracts with total values of £5,000 or over, which may be inspected; and will support the annual budget review. Central Procurement will keep and publish a consolidated register of all contracts with total values of £10,000 or over, subject to Data Protection requirements;

- 5.14 ensure that all contract management is executed in accordance with Section 13 Contract Management of these Contract Procedure Rules.

6 CONTRACT VALUE CALCULATION

- 6.1 Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.
- 6.2 Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with EU Regulations.
- 6.3 Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English law. Please refer to the Code of Practice for further information.
- 6.4 Where a Framework Agreement is planned the contract value must be calculated to include the total value of all the individual contract arrangements envisaged under the Framework Agreement.

7 AUTHORISATION

- 7.1 Any Procurement, including additions, extensions and variations included in the Annual Budget and Annual Procurement Forward Plan, as approved by Cabinet Resources Committee, is deemed as Authorised irrespective of value.
- 7.2 Any Procurement which has not been Authorised as set out in 7.1 must be Authorised in accordance with Table A in Appendix 1 of these Contract Procedure Rules.

8 PROCUREMENT METHOD

- 8.1 Refer to Table A in Appendix 1 of these Contract Procedure Rules to determine the Procurement process that should be used. If any further clarification is required reference should be made to the Central Procurement Team.
- 8.2 All tender opportunities for works or services over £10,000 must be published and in accordance with Appendix 1, Table A and be subject to Tender Review as set out in the Procurement Code of Practice.
- 8.3 The E-Procurement portal must be used for any Procurement where the value exceeds £10,000.
- 8.4 Where a performance bond or guarantee would be required for the execution of the contract, the requirement must be pre-notified and the bond or guarantee must be in place before contract signature.

9 SINGLE TENDER ACTION

- 9.1 A single tender action or commitment is not allowed unless approved in advance by the Commercial Lead. Refer to the Procurement Code of Practice for detailed guidance.

10 INFORMATION GOVERNANCE

- 10.1 When procuring a new contract the senior responsible Council officer must ensure due diligence checks are carried out to provide sufficient guarantees that the contractor's technical and organisational security measures for handling and protection of information and data are appropriate, suitable and lawful. This is a requirement under Principle 7 of the Data Protection Act.
- 10.2 Evidence of these checks, copies of policies and guarantees provided by the contractor must be retained by the officer responsible for management of the contract and be regularly reviewed throughout the life of the contract.
- 10.3 Refer to the Procurement Code of Practice section on Information Governance for more detailed guidance or contact the Information Management Team.

11 ACCEPTANCE

- 11.1 Acceptance of contracts in all cases is subject to:
- budgetary provision;
 - a compliant procurement process; and
 - confirmation of acceptable financial status of the service provider
- 11.2 Acceptance thresholds for contract extensions and variations of all values are subject to further conditions as set out in Section 14 Extensions and Variations of these Contract Procedure Rules.

12 CONTRACT SIGNING and SEALING

- 12.1 Every contract or contract novation must be in a form approved by the Monitoring Officer (on consultation with HB Public Law) or delegated officer, if its value exceeds £24,999 or where appropriate to the nature of the contract.
- 12.2 All contracts signed following a European Procurement Procedure shall be sealed unless the Monitoring Officer or delegated officer directs otherwise.
- 12.3 Framework Agreements entered into with respect to the provision of social care to individual service users must be sealed.

- 12.4 Save for circumstances where a Court or Tribunal directs a particular placement, Individual Placement Agreements and Individual Funding Agreements must be made under a Framework Agreement specified in 12.3 above and in this case need only be signed (without being sealed) by the respective Director, Assistant Director or Head of Service in accordance with Schemes of Delegation.
- 12.5 Where the Monitoring Officer or delegated officer considers it desirable that a contract should be sealed other than as specified above, then such a contract must be sealed.

13 CONTRACT MANAGEMENT

- 13.1 During the life of the contract Directors, Assistant Directors, Lead Commissioners and Heads of Service must ensure that the Councils approved processes for contract management, as set out in the Procurement Code of Practice are adhered to. In particular to ensure continuous improvement and Value for Money is achieved Directors, Assistant Directors, Lead Commissioners or Heads of Service must ensure that those responsible for managing contracts undergo Central Procurement approved training to ensure:
- contract performance and key performance indicators are met;
 - compliance with specification and contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered;
- 13.2 Throughout the life of the contract, contract managers must ensure the elimination of unlawful discrimination and the promotion of equality in accordance with current legislation.
- 13.3 Contract managers or owners must ensure appropriate security measures are applied to prevent the unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data.
- 13.4 For services or goods contracts valued above £173,934 and works contracts above £499,999 a contract monitoring and review check must be performed 6 months after contract commencement.

14 EXTENSIONS and VARIATIONS

- 14.1 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 TABLE A, Appendix 1.
- 14.2 Contracts may only be extended or varied if all of the following conditions have been met:
- the initial contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
 - the value of the extension or variation added to the value of the original contract does not exceed the original Authorisation threshold as defined in Appendix 1, Table A;
 - the extension or variation has an approved budget allocation;
 - the extension or variation is in accordance with the terms and conditions of the existing contract;
 - if the initial contract was subject to EU tender procedure, that the extension option was declared within the OJEU notice and the original Acceptance (Delegated Powers Report/Cabinet Resources Committee Report) ; and
 - the contract has not been extended before;
- 14.3 In the event that any of the conditions at 14.1 or 14.2 cannot be met, then either a waiver must be sought in accordance with Section 15 (Waivers) or a new procurement commenced.
- 14.4 Where a variation or extension moves the total value of the Contract into a higher threshold, then either a waiver must be sought in accordance with Section 15 (Waivers) or a new procurement commenced.
- 14.5 Any variation or extension that has the effect of raising the contract value above the relevant OJEU threshold is not allowed as this would contravene English law.
- 14.6 The Acceptance thresholds for contract extensions and variations are set out in Table A, Appendix 1 of these Contract Procurement Rules.

15 WAIVERS

- 15.1 In the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Lead Commissioners and Heads of Service may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Cabinet Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 15.2 Directors, Assistant Directors, Lead Commissioners and Heads of Service may take decisions on emergency matters (i.e. an unexpected occurrence requiring immediate action) as set out in the Leader's Scheme of Delegation providing they report to the next available Cabinet

Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant Cabinet Resources Committee report must be provided to Central Procurement and stored on the Councils contract repository.

- 15.3 Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.
- 15.4 Any waiver can only be granted for a maximum period of 12 months and will count as a variation.

16 DEFINITIONS

- 16.1 **“Acceptance”** is the authorisation to enter into a contract with a particular supplier(s) on the terms, conditions and at the price(s) as set out in the contract documents.
- 16.2 **“Authorisation”** is the approval required to enable any Procurement to occur.
- 16.3 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery Unit.
- 16.4 **“Contract”** means a formal written agreement between the Council and the provider of any goods, services or works, including Terms and Conditions as approved by Joint Legal Services.
- 16.5 **“CPT”** means Central Procurement Team.
- 16.6 **“Approved Officer”** means the Director, Assistant Director, Service Lead or Lead Commissioner Officer 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 management once contract is in place.
- 16.7 **“DPR”** means Delegated Powers Report. Templates and guidance for completion are available from the Assurance Group (Governance).
- 16.8 **“Emergency”** where immediate action is needed to protect life or property or to maintain a critical service. Decisions that were not anticipated within the budget or budget plan but nevertheless relate to everyday business, not major changes/decisions outside the approved budget and statutory plans.
- 16.9 **“EU”** means European Union.
- 16.10 **“Exemptions List”** is the list of services, goods or works as approved by the Commercial Lead and which are exempt from the Contract Procedure Rules. The Exemptions List is maintained by Central Procurement and will be a published document.
- 16.11 **“Framework agreement”** is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. In the UK we would know this as a “standing offer to treat (see Code of Practice).

- 16.12 **“Monitoring Officer”** is defined within Article 12 of the Constitution.
- 16.13 **“Part A Procurement”** covers all goods or services not defined as Part B Procurement or Works.
- 16.14 **“Part B Procurement”** means a procurement activity which includes the provision of Health services, Social Care services, Educational services, Temporary Housing needs, recreational, cultural and sporting services.
- 16.15 **“Procurement”** means any activity which includes the identification of need, options appraisal and the execution of a competitive selection process, quotation or tendering process.
- 16.16 **“Non-Procurement”** expenditure applies where the Council has to pay for a Service which it did not initiate or is contained within the Exemptions list duly authorised by the Commercial Lead.
- 16.17 **“OJEU”** means the Official Journal of the European Union.
- 16.18 **“Procurement Forward Plan”** means the annual report compiled by the Council setting out their planned contractual Procurements for the forthcoming financial year and submitted to the Cabinet Resources Committee for authorisation.
- 16.19 **“Purchase”** means the activity which uses a mechanism to undertake Procurement under the Council’s standard terms and conditions (Purchase Card or Purchase Order) or against an accepted contract.
- 16.20 **“Quotation”** means a priced bid for the provision of goods, a service, or supply of works.
- 16.21 **“Reasonable means of selection”** means an unbiased selection process based on the relative merits of the quotation provided and taking account of previous purchasing practices for supplies, services or works of a similar type. This process would normally involve attaining more than one quotation, audit trail of action undertaken and confirmation from the relevant approved officer that budget is available and rationale for appointment is accepted. Reasonable means of selection process are detailed in the Procurement Code of Practice.
- 16.22 **“Works”** means building & engineering, including capital works.

17 APPENDIX 1 - TABLE A – Authorisation and Acceptance Thresholds

	Procurement value	Authorisation to commence a procurement process	Authorisation Documentation	Procurement method	Acceptance process	Acceptance Documentation	Variation or extension Acceptance
A	Up to £25,000	Head of Service or as designated by approved Scheme of Delegation	Audit trail, recommended to be on forward plan over £10,000	Reasonable means of selection including budget authorisation and audit trail ⁱ	Head of Service or as designated by approved Scheme of Delegation	Audit Trail	Summary DPR
B	£25,001 to £173,934	Director/Assistant Director	On forward Plan or Full Officer DPR	Minimum 2 written Competitive Quotations received ⁱⁱ	Approved Officer	Summary DPR	Full DPR (maximum £173,933 – please refer to 14.3)
C	£173,934 to £499,999	Cabinet Member	On forward Plan or Full Cabinet Member DPR	Part A ⁱⁱⁱ : EU tender	Director	If within budget and agreed savings target on forward plan (Summary DPR) otherwise Full DPR	Cabinet Member
				Part B: Minimum 3 competitive Quotations received			
				Works: EU tender above £4,348,350			
D	£500,000 and above	Council or Cabinet Resources Committee	On Forward Plan Cabinet Resources Committee Report	EU tender (works contract value above £4,348,350)	Cabinet Member	Cabinet Member DPR	Cabinet Resources Committee

ⁱ All procurements above £10,000 must be advertised on the E-portal (see 8.2)

ⁱⁱ Under £75k Head of Procurement may waive requirement of 2 written quotes subject to assurance that the market place has been fully tested

ⁱⁱⁱ To determine if the goods or services to be purchased are Part A or Part B refer to Definitions (see 16.12 and 16.13) or Central Procurement

Procurement Code of Practice

Version: Final Draft v0.6

10th MARCH 2013

DRAFT

CONTENTS

1.	INTRODUCTION	3
2.	APPLICATION	3
3.	SCOPE	3
4.	COMMERCIAL POLICIES AND PROTOCOLS	4
5.	PROCUREMENT ETHICS	4
6.	TRANSPARENCY AGENDA	5
7.	AUDIT TRAIL	5
8.	ROLES AND RESPONSIBILITIES	5
9.	CONFIDENTIALITY	6
10.	LEAN PROCUREMENT	6
11.	ASSESSING NEED	7
12.	CATEGORY & PROCUREMENT STRATEGY	7
13.	PROCUREMENT AUTHORISATION	8
14.	SPECIFICATION DEVELOPMENT	8
15.	PROCUREMENT	10
16.	INFORMATION GOVERNANCE	16
17.	DATA PROTECTION CONTRACT PROVISIONS	17
18.	CONTRACT DETAILS	18
19.	FRAMEWORK AGREEMENTS	18
20.	CONTRACT AWARD	19
21.	CONTRACT MANAGEMENT	20
23.	NEW SUPPLIER	21
24.	PURCHASE ORDERS	21
25.	PURCHASING CARDS	22
26.	DEFINITIONS	23

1. INTRODUCTION

- 1.1 The Procurement Code of Practice (the “Code”) provides guidelines for Council Officers to carry out effective and efficient procurement activities which are compliant with Council Constitution and policies.
- 1.2 The Code provides supplementary information to the Contract Procedure Rules which take precedence over the Code.
- 1.3 Any Council Procurement activity must comply with the Contract Procedure Rules. It is a disciplinary offence to fail to comply with Contract Procedure Rules when undertaking Procurement on behalf of the Council. Council employees, either permanent or temporary, have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Chief internal Auditor.
- 1.4 All Procurement must be undertaken with regard to high standards of probity and in accordance with the relevant sections of the Council’s Constitution. The Council has a commitment to transparency and it is important that the procurement process is as transparent and open as possible.

2. APPLICATION

- 2.1 All Council officers who commission and or procure contracts for supplies, works or services should adhere to the principles and practices set out in the Code and where necessary seek further advice and guidance from Central Procurement. This applies to all persons who commission and or procure contracts on behalf of the Council, such as external consultants or third party service providers.
- 2.2 Council Officers with responsibility for procurement must ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness

3. SCOPE

- 3.1 The Code should be followed for all Procurement activities made on behalf of the Council as defined in Section 26 (Definitions) of this Code.
- 3.2 Where the Council is entering into a contract as an agent and or in collaboration with another public body or government department this Code applies only in so far as it is consistent with the requirements of the body concerned. Where the Council is acting as principal this Code will take precedence and other participating authorities should be made aware of the content.

4. COMMERCIAL POLICIES AND PROTOCOLS

There are 10 essentials that **MUST** be followed when carrying out Procurement:

1. **DO** plan your projects ahead to allow enough time for the procurement process, including the drafting and negotiation of contracts.
2. **DO** observe any spend freezes in place by Her Majesty's Treasury and the Department for Communities and Local Government (DCLG.)
3. **DON'T** negotiate on contract terms without guidance and advice from the Central Procurement Team and, where relevant, HB Law (Joint Legal Service).
4. **ALWAYS use Barnet** terms and conditions of contract unless otherwise approved by Central Procurement and HB Law (Joint Legal Services).
5. **ONLY** Central Procurement or HB Law (Joint Legal Service) are authorised to draft and issue contracts, extensions and variations.
6. **DON'T** give verbal or written instructions to start work, or pay suppliers until a Purchase Order has been raised, or a contract signed by all, relevant, parties is in place.
7. Retrospective purchase orders (raised after receipt of invoice) are **NOT ALLOWED**.
8. **ALL** original documentation must be filed and stored in accordance with the council's Records Retention and Disposal Policy and in line with the guidance provided by Central Procurement for each procurement activity.
9. **DON'T** set up new suppliers without Central Procurement approval.
10. **DO** create a contract for any Procurement value over £10,000. A No Contract/No PO/No Pay policy has been introduced and covers any expenditure over £10k unless specifically stated as exempt by the Contract Procedure Rules.

Note that written documentation should be created, recorded and stored for every contractual arrangement, although the documentation may be a PO. Every contractual arrangement must be recorded in writing. Where the value is £10,000 or more the written record must be a formal contract, appropriately executed (signed/sealed) by all relevant, parties.

5. PROCUREMENT ETHICS

- 5.1 Council is committed to demonstrably ethical procurement to make sure standards of conduct by individuals and the organisation generates trust and respect.
- 5.2 Staff conduct must not foster suspicion of any conflict between official duties and private interests. Staff must not accept gifts from existing or prospective suppliers, or show favour or disfavour to any person or organisation. Dealings with suppliers must be honest, fair, transparent and even-handed at all times

6. TRANSPARENCY AGENDA

- 6.1 Government requires greater transparency across all public bodies so that the public can hold organisations and politicians to account. The Public Sector Transparency Board has been established and is chaired by the Cabinet Office Minister. The Board's role includes supporting departments as they deliver the Government's transparency commitments, the procurement aspects of which are:
- To publish all tender documents for contracts over £10,000 on a single website;
 - To publish financial transactions above £500 on a monthly basis;
 - To publish all new contracts in full; and
 - To ensure compliance with all HM Treasury restrictions on procurement
- 6.2 If you have any questions on the transparency agenda in relation to Procurement then discuss these with your Business Partner in Central Procurement. For any other matter regarding transparency you officers should contact the Information Management function.

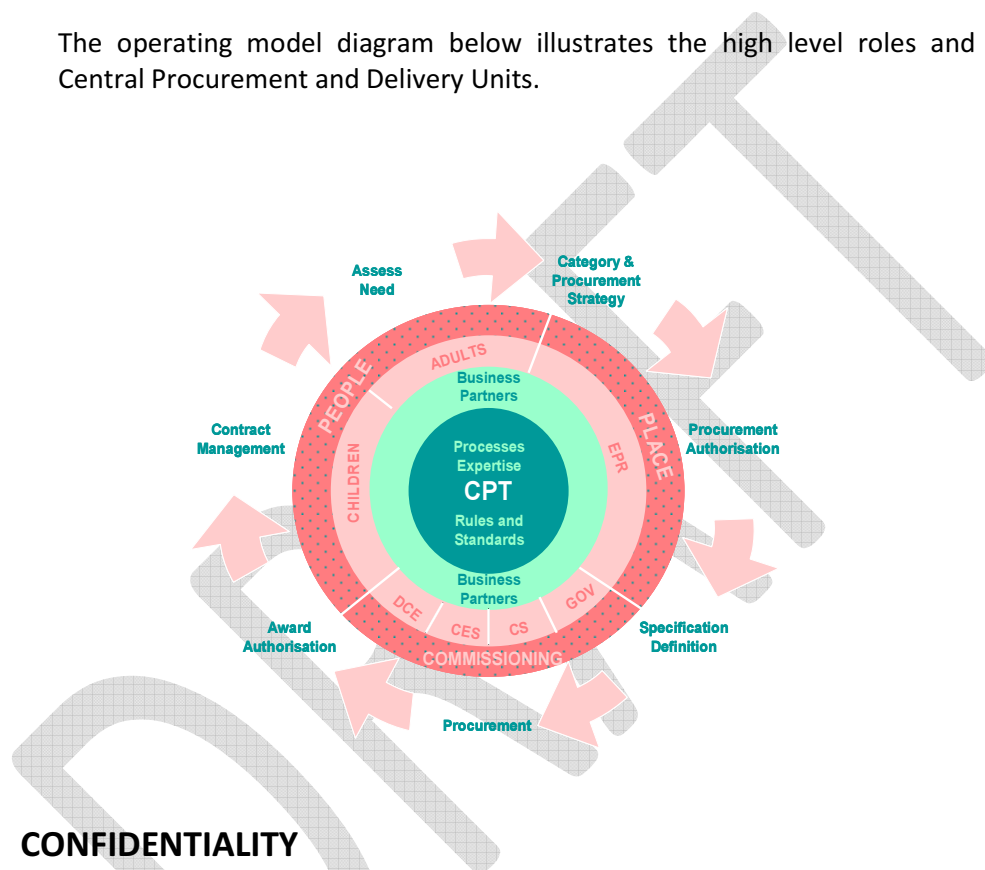
7. AUDIT TRAIL

- 7.1 It is important that staff follow and adhere to the Contract Procurement Rules to ensure probity and value for money for the Council. Under the Contract Procurement Rules, a significant amount of responsibility has been delegated to Council officers.
- 7.2 There must be a clear audit trail in place in all procurement activity. Any decisions on tendering and contract letting must be clearly documented and able to support decisions and, at times, during an audit review.
- 7.3 There are two key elements to the audit trail:
- 7.3.1 All Responsible Officers are required to keep a register of contracts within their delivery area of £5,000 or more. A contract register template can be obtained from Central Procurement; and
- 7.3.2 A Tender Review Process (see section 15.3 of this Code) which provides additional structure to contracts over £173k in value. Tender Review Forms must be completed for all purchases over £173k these are obtained from Central Procurement.

8. ROLES AND RESPONSIBILITIES

- 8.1 With commissioning at the core of the Council operating model, Procurement activity must provide robust commercial leadership utilising a Category Management approach to create a more strategic view of the Councils Procurement activity.

- 8.2 Central Procurement is responsible for tendering, monitoring and management of all corporate contracts. Examples are contracts for stationery, office furniture and provision of travel services. Central Procurement will consult and liaise with other areas of the Council on such contracts and will manage the procurement process and be responsible and accountable for the performance of the contract.
- 8.3 Where there are two or more Delivery Units involved in the letting of a contract, there must always be a 'Lead' Delivery Unit. The 'Lead' Delivery Unit will have responsibility for the effective, letting and monitoring of the contract with the support of Central Procurement for the tendering process. Central Procurement should be consulted for guidance to determine the Lead Delivery Unit.
- 8.4 The operating model diagram below illustrates the high level roles and responsibilities of Central Procurement and Delivery Units.



9. CONFIDENTIALITY

- 9.1 Whilst the council has a commitment to transparency it is also responsible for ensuring the appropriate confidentiality and viability of its procurement. Unless directed or required under legislation officers should consider the procurement process and information supplied by bidders to be confidential.

10. LEAN PROCUREMENT

- 10.1 Central Procurement will use LEAN sourcing principles to speed up the procurement process and reduce costs for all involved for all OJEU (above threshold) procurements.
- 10.2 Under LEAN there is a requirement to carry out significant levels of pre-procurement market engagement with diverse range of prospective suppliers, including SME's in order to warm up

the market, test current thinking and generate ideas for innovation as part of the development of outcome-based specifications.

- 10.3 Central Procurement will provide advice and guidance on delivering OJEU procurement along LEAN principles

11. ASSESSING NEED

11.1 PROCUREMENT FORWARD PLAN

- 11.1.1 The Procurement Forward Plan provides the detail of planned contract based procurement activity for approval by the Cabinet Resources Committee. Such approval will provide the Procurement Authorisation required in Section 13 below.
- 11.1.2 The Procurement Forward Plan is produced annually in October and covers the planned contract procurement activity for the following financial year.
- 11.1.3 Central Procurement is responsible for providing the template to Responsible Officers, validating responses and publishing a report for Cabinet Resources Committee approval.
- 11.1.4 Central Procurement using the Procurement Forward Plan will work in partnership with Responsible Officers to develop category strategies, manage resources and identify and agree projected savings targets for each activity that will deliver value for money outcomes to the benefit of the Council.

12. CATEGORY & PROCUREMENT STRATEGY

12.1 MARKET TESTING

- 12.1.1 Market Testing is the process of researching and understanding the market maturity, opportunity, levels of interest and potential solutions so as to inform the procurement strategy options and likely contract values required for the authorisation process.
- 12.1.2 Central Procurement must be consulted on market testing tools and techniques to ensure the Council does not contravene any Procurement regulations or jeopardise a future Procurement process.
- 12.1.3 Central Procurement must be involved in the design, set-up and implementation of any market testing activity.

12.2 AGGREGATION AND DISAGGREGATION

- 12.2.1 Category Management involves the aggregation of spend by service or product category so that Value for Money is optimised following procurement.
- 12.2.2 Category Management requires spend analysis across all Delivery units for Goods and Services which are similar in nature and can be bundled together, and forms the basis for the Procurement Strategy.
- 12.2.3 This approach will help to ensure that the Council will comply with CPRs and OJEU limits when procuring Goods and Services across the Council.

12.2.4 Disaggregation is where the procurement of Goods and Services is unbundled or fragmented into smaller lot sizes or unduly short contract time frames. This activity may result in the Council not achieving Value for Money and being exposed to unnecessary risk and liability because of the avoidance of higher Contract Procurement Rule thresholds and is not permitted.

12.3 THE PUBLIC SERVICES (SOCIAL VALUE) ACT 2012

12.3.1 The Act requires commissioners and procurers at the pre-procurement stage to consider how what is to be procured may improve social, environmental and economic well-being of the relevant area. Central Procurement will provide advice and guidance on implementing the Act on all procurement activity in which the Public Contracts Regulations 2006 apply.

13. PROCUREMENT AUTHORISATION

13.1 Authorisation for any procurement to commence must be completed as set out in the Contract Procedure Rules.

14. SPECIFICATION DEVELOPMENT

14.1 SPECIFICATION WRITING

14.1.1 The specification is a key procurement document and will form the basis of the supplier evaluation process with which the successful supplier will be chosen. The specification is incorporated into the supply contract setting out what the supplier will deliver and how success will be measured.

14.1.2 A specification can be defined as "a statement of needs to be satisfied by the procurement of external resources". It is also known as an operational requirement, statement of requirement, statement of service requirement or statement of work.

14.1.3 It is recommended that an output or outcome-based specification is used wherever possible.

14.1.4 A full and approved specification will be required before engaging the market and commencing the tender process.

14.1.5 Refer to Central Procurement for training and guidance on writing a specification.

14.2 GUIDELINES FOR CREATING A SPECIFICATION

- state the requirement specification completely, clearly, concisely, logically and unambiguously;
- focus on outputs not how they are to be met;

- include enough information for potential suppliers to decide and cost the goods or services they will offer, or in the case of negotiated route arrive at realistic budgetary costs;
- permit delivered goods or services to be evaluated against defined objective criteria by examination, trial, test or documentation;
- state the criteria for acceptance by examination, trial, test or documentation;
- contain only the essential features or characteristics of the requirement;
- be non-discriminatory and provide equal opportunity for all potential suppliers within the EU to offer a product or service which satisfies the needs of the user and which may incorporate alternative technical solutions; and comply with any legal obligations e.g. under UK law, the EEC Treaty, an EC Directive or the GATT Agreement on Government procurement.

14.2.1 As a general rule the specification should be developed from a statement of the business requirements created during the preparation of the business case.

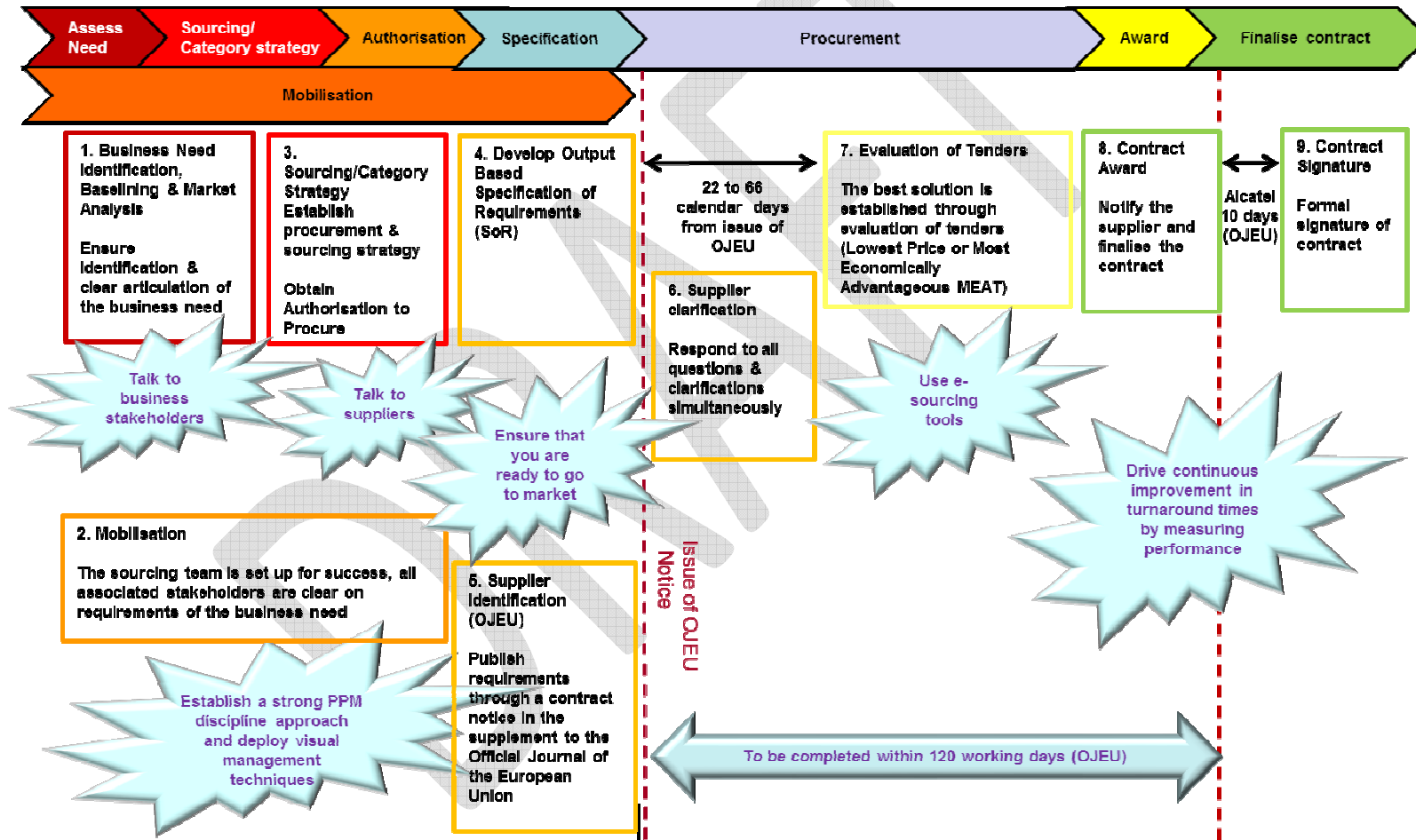
14.2.2 The requirement may be refined in consultation with suppliers as part of market testing or after the supplier selection stage. This can be particularly useful where innovative solutions are being considered. This should be managed with great care and integrity to avoid contravening procurement regulations and should only be done in partnership with Central Procurement.

14.2.3 The specification is prepared by the Responsible Area in the first instance. Central Procurement will review the specification and support the team to produce the final agreed specification. It is extremely important to ensure that the specification delivers the requirements needed, for large scale projects and it is good practice to have the input of stakeholders and suppliers..

15. PROCUREMENT

15.1 PROCUREMENT PROCESS

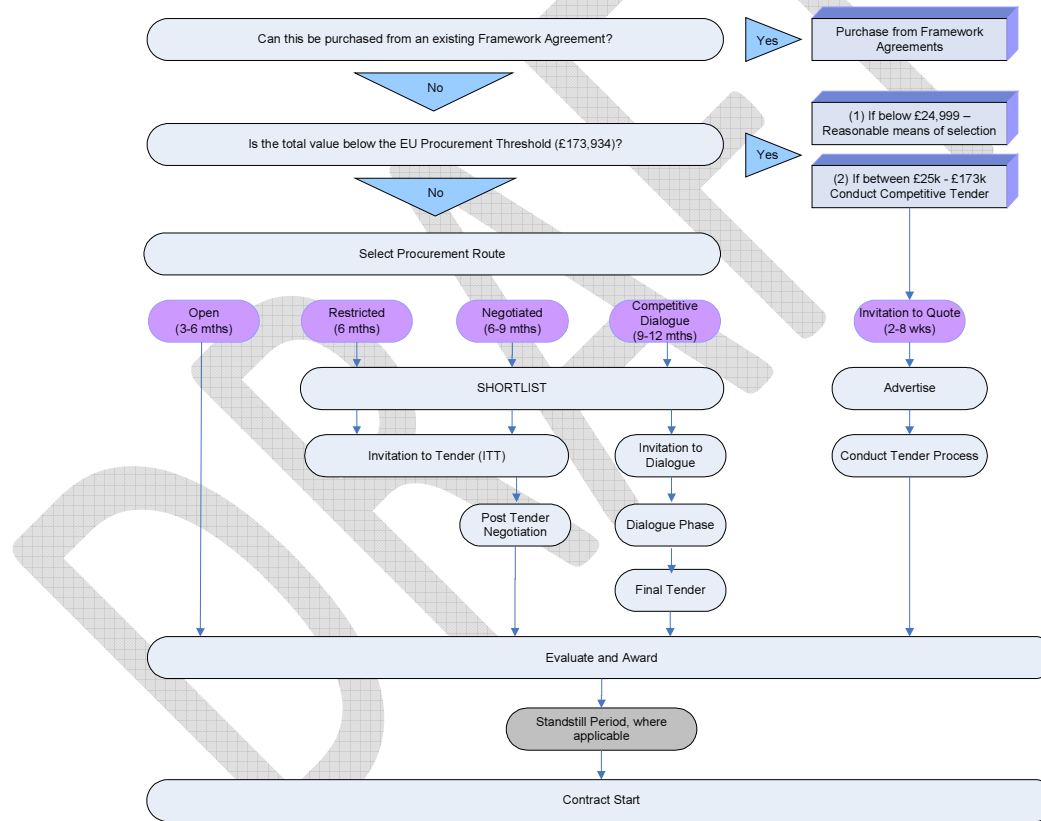
The Procurement process is an integral part of Commissioning. The key stages are:



15.2 PROCUREMENT ROUTE MAP

The diagram below identifies the available routes dependent on contract value. The timeframe for each is subject to approval of the procurement strategy, approval of specification and approved contract form.

Please note that where the 'Negotiated' procedure is being used, references are, normally to 'Invitation to Negotiation (ITN)'. Also, are the time estimates, perhaps, a little optimistic? e.g. competitive dialogue: I would think that the minimum would be 12 months, rather than 9 months



15.3 TENDER REVIEW PROCESS

15.3.1 All tenders for services or supplies valued at £173,934 or more, or tenders or quotations for works greater than £500,000 are subject to two compulsory Tender Review checkpoints.

15.3.2 The aim of the Tender Review checks is to quality assure procurements before tenders are sought and to ensure appropriate contract monitoring arrangements are in place post contract award. The checkpoints are as follows:

- At Tender Review the proposed procurement and options appraisal must be approved by the Central Procurement and where appropriate Union agreement obtained before going to public notice;
- At Contract Monitoring Review the contract monitoring arrangements are reviewed by the Central Procurement Team six months after contract award.

15.3.3 Tender Review Forms will be supplied and must be completed prior to submission to Central Procurement for all contracts valued at £173,934 or more. The aim of the Tender Review Forms is:

- to assist Delivery Units by setting out the process to be followed for the tender processes
- to ensure that appropriate preparation is undertaken for large procurements, including provision of options appraisal;
- to provide an audit trail for procurements; and
- to enable Central Procurement to retain an oversight of all large procurements being carried out by the Authority

15.3.4 There are two Tender Review forms to be used depending on the stage of the contract. Both forms are obtainable from Central Procurement:

- Tenders for works, supplies and services contracts valued at £173,934 or more must be accompanied by the Tender Review Form;
- Tenders for Part B Services, including Social Care, Education and Temporary Housing contracts valued at £500,000 or more must be accompanied by the relevant Part B Service Tender Review Form.

15.4 WORKING WITH OTHER BOROUGHES (consortia procurement)

15.4.1 Procurement of works, supplies or services through an existing Consortium may be approved by the relevant Head of Service if:

- The Consortium has been previously approved by the Commercial Lead;
- The terms and conditions of any proposed contract have been approved by HB Law (the Joint Legal Service);

15.4.2 An Information Sharing Agreement may be required even for an existing Consortium. Please refer to the Information Management Team for advice.

15.5 EXTERNAL APPROVED LISTS

- 15.5.1 External Approved lists may only be used where the Head of Central Procurement has agreed the use of an external approved list or register for persons to be invited to tender for such contracts.
- 15.5.2 At least five persons (organisations) from the Approved List must be invited to tender. The relevant Head of Service shall authorise a suitably experienced officer to select those to be invited to tender.
- 15.5.3 Only persons selected from the list or the in-house service may be invited to tender, except that in relevant cases persons proposed by a recognised tenants association or by any other body with equivalent rights may also be selected.
- 15.5.4 The relevant Head of Service shall record the details of the selection process as part of the procurement process. This information should be captured in a Tender Review form where applicable. The information must include the name of each contractor selected and the reason for choosing that contractor, e.g. random selection, proven quality or value for money.

15.6 CONSULTANT SERVICES

- 15.6.1 Procurement of Consultancy contracts must have pre-procurement approval from the Commercial Lead, Human Resources and HB Law (Joint Legal Service).
- 15.6.2 Central Procurement must be involved in procuring any consultancy/professional services contracts. In any event Consultant contracts must be time-limited and project limited with review against continued business requirement and value delivered. The Commercial Lead must approve any contract variation.

15.7 SINGLE TENDER ACTION

- 15.7.1 Single Tender Action (STA) is the awarding of a contract to a single party without undertaking a competitive tendering exercise. Single Tender Actions are permitted under the EU Procurement Directives in the following, exceptional circumstances:
- Technical Reasons – only one enterprise has the expertise to do the work.
 - Exclusive Rights – only one party can perform the contract due to intellectual/industrial property rights e.g. patents/trademarks or copyright.
 - Artistic Reasons – engaging an artist or performer.
 - Consultancy Services – follow up work to complete the assignment previously awarded on a competitive tendering exercise; see guidance on aggregation rules.
- 15.7.2 The burden of proving that STA is justified rests with the responsible officer awarding the contract, but Central Procurement can advise whether the Single Tender justification fits within the four exceptions noted above.
- 15.7.3 Single Tender Action is not permitted in the following circumstances:
- time constraints through poor project planning;

- previous relationships with suppliers;
- to avoid the competitive tendering exercise.

15.7.4 The Commercial Lead must approve all STA requests.

15.8 E-TENDERING AND E-AUCTIONS

15.8.1 All tenders above £10k must go through LBB approved e-tendering or e-auction systems. Central Procurement will control and manage all electronic tenders and auctions to ensure the integrity and electronic security of the process.

15.9 TENDER MONITORING PROCESS

15.9.1 All tenders or quotations of £10,000 or more must have a contract number which can be obtained by entering the contract details into Central Procurement tender and contract database. This may be done by contacting the officer assigned to your service in Central Procurement who has access to the database.

15.9.2 The aim of the contract number is to enable contracts to be tracked throughout their life cycle, from tender development through to contract award and finally contract re-letting.

15.10 RECEIPT AND OPENING OF TENDERS

15.10.1 Central Procurement will manage the receipt, opening and recording of all tenders.

15.11 TENDER EVALUATION

15.11.1 All tenders must be evaluated in accordance with either Lowest Price or Most Economically Advantageous Tender (MEAT). The criteria for award must be included in the published tender document

15.11.2 All tenders above £10k must be evaluated independently by at least 2 individuals. Central Procurement will advise on the tender evaluation process for contracts over £10k.

15.11.3 Evaluators must record their individual comments prior to the consensus meeting. Summary comments must be recorded at the consensus meeting and kept on file. These will be used to support the debriefing exercise

15.12 FINANCIAL EVALUATION OF SUPPLIERS

15.12.1 If: (a) the cost of a contract is expected to exceed £173,934 or more for supplies or services or £500,000 for works or:
(b) the contract is considered to have significant impact on the local community, then contractors must be subject to a financial evaluation as part of the selection process.

15.12.2 This evaluation should be undertaken by:

- Central Procurement if the contract is valued at less than £173,934 for supplies or services or less than £500,000 for works or the contract is considered to have significant impact on the local community;
- A financial officer as delegated by the Chief Finance Officer if: (a) the contract is valued at £173,934 or more, for supplies or services; or (b) the contract is valued at £500,00, or more for works; or (c) the contract is considered to have significant impact on the local community.

In both cases the financial evaluation must be completed within in a period not exceeding two weeks.

15.13 RECORDS MANAGEMENT

15.13.1 Comprehensive records of every purchase, must be kept in accordance with the council' Records Retention and Disposal Policy.

15.13.2 For tenders, contracts and framework agreements, all original written procurement documentation must be managed and stored by the Delivery Unit/area of responsibility. This includes tenders; contract requisition forms; specifications; data protection due diligence evidence; tender packs; supplier correspondence; contracts; service level agreements; contract variations; contract extensions, and termination letters.

15.13.3 For work carried out under a purchase order, supporting documentation must be given to Finance either electronically or in hard copy.

15.14 POST TENDER CLARIFICATION

15.14.1 Any post-tender clarification must be based on the tender submission received and approval must be sought from Central Procurement before proceeding.

Note that in the case of European procurements there is a mandatory requirement to provide bidders with certain, specified, information (see section 19, below)

15.15 DEBRIEFING SUPPLIERS

15.15.1 Debriefing gives bidders feedback on the quality of their response and the reason they did or didn't get selected. It is carried out at the bidder's request, following a pre-qualification or tender exercise. Debriefing is an important and integral part of good procurement practice because it provides a useful learning tool for you and the bidder.

15.15.2 The objective is to provide positive and constructive feedback on the bidder's response, together with an opportunity to understand the evaluation process. It is aimed to assist bidders to improve their performance in future procurement exercises.

15.15.3 Key requirements for debriefing:

- Debriefing must be conducted at the request of an unsuccessful bidder.
 - Debriefing successful bidders is good practice and should be encouraged wherever possible.
 - 'Unsuccessful Bidder' letters should always include an invitation to bidders to attend a debrief meeting.
 - Debriefing should always be undertaken with caution and must be planned thoroughly.
 - Debriefing should be face-to-face interview with senior representatives of the bidder, and any other form of debrief, such as by telephone, must be undertaken by a commercial adviser only.
 - Ideally the Debrief team should include someone from the evaluation team and a commercial advisor from Central Procurement.
 - The timetable should enable debriefing of unsuccessful suppliers prior to contract signature.
- 15.15.4 If subject to the EU procurement regulations, debriefing must take place at least three days before the end of the standstill period if requested by midnight of the second working day following contract award notification, or otherwise within 15 days of receipt of a request from an unsuccessful bidder.

16. INFORMATION GOVERNANCE

- 16.1 As stated in the Contract Procedure Rules, the council must carry out due diligence checks in the area of information governance. External contractors do not necessarily need to comply with the council's own information governance policies, but it is important that they follow procedures that are at least the same standards as the council's. We may require contractors to abide by the council's policies if they are using council equipment. As part of the due diligence process the contractor's information governance policies need to be checked by the officer undertaking the procurement to ensure they are (or an assurance obtained that they will be amended to be) at least equal to the council's standards in terms of compliance with the relevant data security legislation.
- 16.2 All contracts entered into on behalf of the Council may be subject to disclosure under the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 ("EIR"). A contract clause cannot exclude the contract from the council's responsibilities under FOIA.
- 16.3 Information belonging to the council but held by a contractor on the council's behalf may be subject to disclosure under the Freedom of Information Act 2000. A contract clause cannot remove this responsibilities under FOIA
- 16.4 PRE-CONTRACTUAL CHECKS
- 16.4.1 There is an obligation under the Data Protection Act 1998 (the Act) to undertake pre-contractual checks on the contractor. The Act deals with the processing of personal data. i.e. information which relates to a living, identifiable individual, which includes names, address, date of birth etc. Whilst there may be some contracts that do not include the processing of personal data, the vast majority of Barnet's contracts will include the processing of personal data by the contractor on the council's behalf. The

contractor will be the “Data Processor” and the council the “Data Controller”. It is a requirement of the Act for Barnet as Data Controller to ensure that the Data Processor provides sufficient guarantees concerning its technical and organisational security measures which govern the processing to be undertaken.

- 16.4.2 The contract manager should make enquiries with the potential Data Processor and should take account of the responses to these enquiries as part of the procurement process when choosing a provider. Copies of letters and documentation should be retained as evidence in the event of a data protection audit or if an incident occurs and they are required by the Information Commissioner.
- 16.4.3 The data security systems and risk assessment procedures of the Data Processor have been thoroughly tested and meet the required standards of the Council’s Information Governance policy
- 16.4.4 Both physical and electronic measures must be covered, as well as provision for training and staff verification. As a minimum, copies of appropriate information security policies and procedures must be obtained.

16.5 ONGOING CHECKS

- 16.5.1 Regular monitoring of information security policies of the Data Processor should be undertaken and the results retained, together with any communications between the council and the Data Processor concerning improvements or amendments required to their processes or systems. The frequency of monitoring would be dependent on nature of data being processed and the circumstances of the contract.

17. DATA PROTECTION CONTRACT PROVISIONS

17.1 **The Data Protection Act 1998 Compliance Toolkit provides full details and checklists**

- 17.1.1 All contract terms for Data Processing services must be approved by an Information Governance Officer from the councils Information Management Team;
- 17.1.2 Contracts for Data Processors must state that they will only act on the instructions of the Data Controller.
- 17.1.3 Contracts must state that the Data Processor is required to comply with obligations equivalent to those imposed on a Data Controller by the 7th Data Protection Principle of the Act.
- 17.1.4 The contract must include the right to make reasonable spot checks on the Data Processor’s information security measures and the Council must not engage any Data Processor who refuses such access.
- 17.1.5 Contract contains performance monitoring to ensure that the Data Processor continues to meet these standards throughout the life of the contract and beyond if necessary.
- 17.1.6 Clauses should be included in the contract that cover the provision of information from the contractor to the council to enable it to comply with its statutory duties

under the Freedom of Information Act 2000, Data Protection Act 1998 and other legislation.

17.1.7 If there are any queries about the applicability of information governance requirements to the contract, specialist advice should be sought from the council's Information Management team.

17.1.8 The contract should contain provision to ensure that the Council is immediately notified of any data security incident involving Council data.

17.2 SUB-PROCESSORS

17.2.1 Any sub-contracting undertaken by a Data Processor must further bind any sub-contractor to comply with the same terms as those to which the contractor is required to comply with under the main contract.

17.3 EXIT ARRANGEMENTS

17.3.1 The contract exit arrangements must include provisions that cover the managed return or secure deletion of the Council's data.

17.4 EXISTING ARRANGEMENTS

17.4.1 All existing contractual arrangements should be reviewed to ensure they are in line with Data Protection Act requirements.

18. CONTRACT DETAILS

18.1 All contracts should use Council standard Terms and Conditions. Any changes to these must be approved by Central Procurement and HB Law (Joint Legal Service) prior to signature.

19. FRAMEWORK AGREEMENTS

19.1.1 Following calls for competition under the Open, Restricted, Competitive Dialogue or Negotiated Procedures, a purchaser may conclude a Framework Agreement with economic operators. Having established the Framework Agreement in accordance with the rules detailed under Contract Procedure Rules, purchasers may award specific contracts to the economic operator's party to the agreement.

19.1.2 For purposes of the rules, Framework Agreements are broken down into two categories:

- A single supplier framework: call offs/specific contracts are awarded without further competition but they should remain within the limits of the terms laid down in the framework agreement

- A multi supplier framework must contain at least three (3) suppliers. Call off contracts can be awarded either:
 - a. by application of the terms set out in the agreement itself; or
 - b. where not all the terms are set out in the framework agreement, by mini competition

19.1.3 Rules applicable to both types of Framework Agreements:

- The terms may not exceed four years
- When awarding contracts based on a Framework Agreement the parties must not make substantial amendments to the terms laid down in that agreement.

19.1.4 Additional rules applicable to Framework Agreement mini competitions:

- consult in writing all the economic operators capable of performing the proposed call-off contract;
- fix a time limit for the receipt of mini competition quotations which takes into account factors such as the complexity of the subject matter of the contract and the time needed to send in tenders;
- keep each mini competition quotation unopened and in a secure location until the expiry of the time limit for the receipt of tenders; and
- award each contract to the contractor that has submitted the best offer on the basis of the award criteria, which is in accordance with framework evaluation criteria
- of call-offs based on mini competitions above the threshold value (EU Public Procurement threshold applicable at the time) is subject to a 10 day standstill period, appropriate "Alcatel" letters to be released.

19.1.5 For framework agreements, the mandatory standstill period applies at the stage at which a framework agreement itself is awarded, but not during subsequent call-offs or mini-competitions within framework agreements. It is best practice to have a standstill period during the call-off stage, if possible.

20. CONTRACT AWARD

- 20.1 For all procurements, you must keep the supplier, contractor or service provider informed about the award of the contract.
- 20.2 This must be done in writing by the quickest means available, as soon as possible after the award decision has been made, and include details of:
- the award criteria
 - the score of both the, relevant, unsuccessful tenderer and the successful party

- the name of the winning tenderer
- 20.3 At least 10 days must be allowed between the date of despatch of this information (known as 'notice of award'), and the date on which the new contract starts or framework agreement concludes ("Standstill Period").
- 20.4 A supplier that has been sent a notice of award may request an accelerated debrief. If this is received *in writing* by midnight of the second working day of the standstill period, you must provide this information at least three full working days before the end of the standstill period.
- 20.5 Where this is not possible, the standstill period must be extended to allow at least three working days between the feedback and the date LBB proposes to enter into the contract.
- 20.6 Council must provide a debrief within 15 days of receipt of the request, if a request for feedback is received outside of the accelerated time limit. There is no need to extend the standstill period in these circumstances
- 20.7 For further guidance please speak to Central Procurement.

21. CONTRACT MANAGEMENT

- 21.1 Directors, Assistant Directors, Lead Commissioners and Heads of Service are responsible for ensuring contract management and monitoring activities are carried out in accordance with the Contract Procedure Rules. Contract Management and Monitoring is required for all contracts. Contracts in excess of £10,000 require completion of a Contract Monitor Review Form and inclusion on the Corporate contract performance review register.
- 21.2 Contract management activities can be broadly grouped into the following areas:
- **Service delivery management:** ensures that the service is being delivered as agreed, to the required level of performance and quality.
 - **Relationship management:** is ensured through regular contract monitoring meetings which keep the relationship between the two parties open and constructive.
 - **Contract administration:** handles the formal governance of the contract and changes to the contract documentation. Performance against contract standards must be monitored and recorded on a regular basis proportionate to the risk and value of the contract.
 - **Contract Dispute:** Guidance must be sought from Central Procurement and or Joint Legal Services.
- 21.3 Contract monitoring is a key part of contract management which must be carried out during the lifetime of a contract to ensure an efficient, relevant, productive service.
- 21.4 Effective monitoring of contracts will ensure that all those who are responsible for contract management in the council regularly and accurately assess the performance of goods, works

and service providers. This will allow the right management information to be available to make operational and strategic decisions

21.5 Management Information reporting and/or access should be built into the contract and arrangements should be in place to deal with the results of that self-monitoring information. The views of service users should be reported and acted upon where appropriate.

21.6 It is essential that contract monitoring clauses are built into the contract and that both parties are clear about what is expected in terms of performance prior to the contract starting.

21.7 A contract performance review register should be developed for all contracts and should be completed on a quarterly basis. The schedule should set up to calculate an overall score / percentage. In addition to quarterly reports an end of year report should be compiled for each contract.

22. CONTRACT TERMINATION, NOVATION or ASSIGNMENT

Contract termination, novation, assignment or transfer may only be completed by Central Procurement who will work with HB Law (Joint Legal Service) to ensure correct legal procedure is followed. To terminate a contract please contact Central Procurement to complete a Termination Request form.

23. NEW SUPPLIER

23.1 New vendors will only be set up following an approved procurement exercise. It is strictly prohibited to request a new vendor after receipt of an invoice. Any new vendor request must be made using the approved form and must clearly state the reason. Central Procurement may reject a new supplier if a current contract/framework has not been used and/or a properly managed procurement process has not been undertaken.

24. PURCHASE ORDERS

24.1 Each order must be issued using Council approved Purchase order system, with the exception of requirements released through the SWIFT application utilised by Children's Services and Adult Social Services.

24.2 A purchase order must not be placed for supplies or services unless the Head of Service concerned is satisfied by quotation or otherwise that the price obtained is the best available in the circumstances.

24.3 Verbal orders must not be issued. In the event of a true emergency a verbal order may be given and must be confirmed by an official order within 24 working hours.

24.4 Official orders shall be issued for all supplies, works and services required by the Council, with the exception of:

- contracts under seal or documented by the Head of Legal/Director of HB Law (joint Legal Service) which do not require subsequent orders to be placed;
- gas, water, electricity, telephones, periodical payments and annual subscriptions;
- cash purchases properly defrayed from loan accounts or advances from petty cash;
- variation of works included in formal contracts, and authorised by the issue of variation orders; and
- such other items as may be specifically agreed by the appropriate responsible officer with the Chief Finance Officer.

24.5 The responsible officer must ensure that suppliers, services or works are receipted on the Council's Accounting System against the purchase order promptly. For Corporate Contracts where two-way matching has been agreed then goods receipting will not be required. Confirmation of contracts to which two-way matching applies can be provided by CPT. The supplier must be notified immediately of any discrepancy including quality and compliance with specification or purchase order.

24.6 Returnable packages and containers shall be returned to the suppliers and the charge for them deleted from the invoices. In special circumstances where trade custom or other exceptional circumstances demand that payment be made, as far as practicable account must be kept by the appropriate department of the packages or containers to be paid for, and credit obtained on their return or the appropriate account of the Council be debited where they are used for council purposes.

25. PURCHASING CARDS

25.1 Council approved Purchasing cards may be used for low value infrequent purchases not covered by a formal contract or purchase order.

25.2 Central Procurement own the process and policy for use of Purchase cards and should be contacted to obtain further information on obtaining a Purchasing card and authorised use of Purchasing cards.

26. DEFINITIONS

“Acceptance” is the authorisation to enter into a contract with a particular supplier(s) on the terms, conditions and at the price(s) as set out in the contract documents.

“Authorisation” is the approval required to enable any Procurement to occur.

“Central Procurement” is the Councils procurement function.

“Contract” means a formal written agreement between the Council and the provider of any goods, services or works, including Terms and Conditions as approved by Joint Legal Services.

“Data controller” means, subject to subsection (4), a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

“Data processor”, in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

“Exemptions List” is the list of services, goods or works as approved by the Commercial Lead and which are exempt from the Contract Procedure Rules. The Exemptions List is maintained by Central Procurement and published alongside the CPRs and the Code of Practice.

“EU” means European Union.

“Framework agreement” is an agreement between: (1) one or more contracting authorities; and (2) one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. In the UK we would know this as a “standing offer to treat.”

“Non-Procurement” expenditure applies where the Council has to pay for a Service which it did not initiate or are contained within the Exemptions list duly authorised by the Commercial Lead.

“OJEU” means the Official Journal of the European Union.

“Personal data” means data which relate to a living individual who can be identified from those data, or from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller, and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.

“Procurement” means any activity which includes the identification of need, options appraisal and the execution of a competitive selection process, quotation or tendering process.

“Procurement Forward Plan” means the annual report compiled by the Council setting out their planned contractual Procurements for the forthcoming financial year and submitted to the Cabinet Resources Committee for authorisation.

“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.

“Quotation” means a priced bid for the provision of goods, a service, or supply of works.

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Appendix T



The Management of Asset, Property and Land Rules

Version: Final v1.0

20th MARCH 2013

Version Control

Version	Author	Date	Approval	Date
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CONTENTS

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

1 INTRODUCTION

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

2 APPLICATION

- 2.1 The Management of Asset, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop, change use of, or dispose of Assets within its Asset Portfolio.
- 2.2 The Council may delegate responsibility to Authorised Service Providers to manage the Council's Asset portfolio on its behalf, within the boundaries set by these Rules.
- 2.3 The aims of these rules are to:
 - ensure best consideration and propriety in the spending of public money and the maximisation or disposal of Council Assets;
 - enable the development of a balanced Asset Portfolio which is fit for purpose when applied to the delivery of Council services
 - enable the Built Environment to be maintained and developed in a manner which enhances Social Value;

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

- 2.13 Unless the context otherwise requires, terms used in these Management of Asset, Property and Land Rules shall have the meanings ascribed to them as set out in the Definitions section 13 of these rules.
- 2.14 The Management of Asset, Property and Land Rules are not subject to Contract Procedure Rules or the Procurement Code of Practice except when maintenance or alteration works and related services are procured.

3 SCOPE

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

4 REGULATION & LEGISLATION

- 4.1 Corporate Estates is responsible for ensuring Council awareness and compliance with the requirements of all relevant legislation and professional standards.
- 4.2 Any significant changes to existing legislation or measurement standards and methods which impact upon the Asset Portfolio will be reflected in changes to the Asset Management Plan, Asset Management Strategy and the Corporate Plan.
- 4.3 The Management of Asset, Property and Land Rules will be reviewed and updated by Corporate Estates with any significant changes referred to the Constitution, Ethics and Probity Committee in accordance with paragraph 2.12 above.

5 ROLES AND RESPONSIBILITIES

Directors of the Council are accountable for the delivery of the Asset Management Plan in their respective Delivery Units. Their duties in relation to all Asset Management activities are to:

- 5.1 ensure compliance with English law, Council Policy, the Management of Asset, Property and Land Rules, and the Regulatory Framework defined by the Royal Institution of Chartered Surveyors ;
- 5.2 ensure that Annual Asset valuations are carried out and recorded based upon CIPFA rules;
- 5.3 establish and maintain a system of Asset Life Cycle Management, based upon a published register of Council Assets and rolling 5 year Condition Surveys;

- 5.4 identify, evaluate, record and appropriately mitigate risk in connection with the delivery of Services through the Council's Asset Portfolio;
- 5.5 maintain a Scheme of Delegation in accordance with Constitutional requirements;
- 5.6 take immediate action in the event of a breach of the Management of Asset, Property and Land Rules within their Delivery Unit;
- 5.7 ensure that proper records are kept of all changes to the Council Asset Portfolio, which may be inspected by a Member of the Council and kept for the period specified in the Council's Records Retention and Disposal Policy

6 ASSET VALUE CONSIDERATION

- 6.1 Assets will be valued using measurements and methods defined within the RICS Red Book;
- 6.2 Asset valuations may only be made by Council Officers or Third Party Agents qualified to do so through membership of RICS;
- 6.3 Asset acquisition, development and disposal decisions will be taken upon the basis of Best Consideration applicable at the time of the decision, rather than best price;
- 6.4 A less than Best Consideration offer may be recommended to Council under special circumstances, following approval by the Secretary of State for Local Government if required

7 AUTHORISATION

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

8 ASSET ACQUISITION, VARIATION AND DISPOSAL METHOD

- 8.1 The method by which an Asset is acquired or disposed of should be based upon market testing to ensure that Best Consideration is obtained wherever possible;
- 8.2 In the event that market testing is not appropriate then an Independent Valuation must be obtained, provided either by a RICS qualified valuer or the District Valuation Service;
- 8.3 The method employed when acquiring or disposing of an Asset must be consistent with those prescribed within the RICS Red Book in order to safeguard Best Consideration;

- 8.4 The Council must apply appropriate Planning and Building Control rules when changing the use of an Asset

9 INFORMATION GOVERNANCE

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

10 ACCEPTANCE

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

11 CONTRACT SIGNING and SEALING

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

12 WAIVERS

- 12.1 In the event of advertising the disposal of Public Space under Section 123(b), if the relevant Director is not able to report such Asset disposal within the normal reporting cycle, and

needs to proceed with urgency, then the Director must inform Council Members of the intention so that individual Wards are able to consider and make representation to the Director if desired

13 DEFINITIONS

- 13.1 **“Acceptance”** is the authorisation to conclude an Asset acquisition, change or disposal process
- 13.2 **“Acquisition”** is the process by which the Council adds Assets to its Asset Portfolio
- 13.3 **“Agent”** is a qualified person contracted to act on behalf of the Council
- 13.4 **“Asset Life Cycle Management”** is the overall process by which a Council Asset is managed, from acquisition through ongoing maintenance and alteration, through to addressing dilapidations and disposal
- 13.5 **“Asset Management Plan”** is the annual, detailed plan upon which Asset Portfolio actions are programmed
- 13.6 **“Authorisation”** is the approval required to enable an Asset acquisition, change or disposal process to commence
- 13.7 **“Best Consideration”** is the best value that is reasonable obtained for an Asset. Under the Local Government Act 2000 Councils may dispose of land at under best value where this is done to secure the promotion or improvement of the economic, social or environmental well-being of the area provided that the under value does not exceed £2,000,000
- 13.8 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery
- 13.9 **“Built Environment”** is the buildings and other human made space in which people live, work and use for recreation on a day to day basis
- 13.10 **“Condition Surveys”** are detailed reports of the physical condition of an Asset within the Asset Portfolio of the Council
- 13.11 **“Corporate Plan”** is the plan which set out the Council’s main strategic challenges and priorities on an annual basis, and the way in which they will be tackled
- 13.12 **“Disposal”** is the process by which a Council Asset is sold for Best Consideration and removed from the Asset Portfolio
- 13.13 **“Asset Management Strategy”** is the strategic planning document designed to develop the Asset Portfolio to achieve the Corporate Objectives of the Council
- 13.14 **“Lease”** is a legal document which outlines the terms by which the Council agrees to exclusively rent land or property either to or from another Third Party for a specified time
- 13.15 **“Licence”** is a right to occupy land or a property for a defined period of time

- 13.16 **“Market Testing”** is the process by which Assets for disposal are advertised in order to attract and retain interest from the Asset market in order to achieve Best Consideration during disposal
- 13.17 **“Monitoring Officer”** is defined within the Constitution as the Chief Officer of the Council, or delegated officer
- 13.18 **“Asset Portfolio”** is the register of Council Assets (Land and Buildings) wholly or partially owned, or leased by the Council
- 13.19 **“Red Book”** is the Regulatory Framework of Standards and Best Practice Methods and Processes employed by Members of the Royal Institution of Chartered Surveyors when engaged in Asset Life Cycle Management and Asset Valuation
- 13.20 **“Royal Institution of Chartered Surveyors” (RICS)** is the Regulatory Body charged with establishing a Framework of Standards, Methods and Processes which are compliant with English law and represent Best Practice within the Asset Management profession

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

	Authorisation Levelⁱⁱ	Acquisitions	Lease in	Lease out for Rent or Consideration	Licences, Easements and Consents	Compensations, Settlements and Covenants	Disposals
A	Less than £5000	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR – Cabinet Member – note to CRC
B	£5001 to £10000	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	
C	£10001 to £25000	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	
D	£25001 to £100000	Full DPR – Cabinet Member – note to CRC	Full DPR – Cabinet Member – note to CRC	Full DPR – Cabinet Member – note to CRC	Summary DPR – Cabinet Member – note to CRC	Summary DPR – Cabinet Member – note to CRC	
E	More than £100000	CRC Report	CRC Report	CRC Report	CRC Report	CRC Report	CRC Report
F	Variations post Authorisation	Delegated Powers Report Approval needed at the NEXT highest threshold above the original decision					

ⁱ This Table applies to Land and Building activity NOT included in the approved Estate Management Plan

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

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15 **APPENDIX 2 - TABLE B – Acceptance Delegated Powers**

	Authorisation Level	Acceptance meets Authorisation Criteria and is Compliant	Acceptance does not meet Authorisation Criteria, or is not Compliant
A	Less than £5000	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer
B	£5001 to £10000	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer
C	£10001 to £25000	Summary DPR - Director/Chief Operating Officer	Summary DPR – Cabinet Member
D	£25001 to £100000	Summary DPR – Cabinet Member – note to CRC	CRC Report
E	More than £100000	CRC Report	CRC Report
F	Not Value dependant	CRC Report	CRC Report

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APPENDIX U HR Regulations

Except for the powers reserved to General Functions Committee the offer, appointment, varying and ending of contracts of employment is a matter for the Head of Paid Service. These Regulations set out the delegation of these responsibilities. Where a matter sits outside these Regulations then it must be referred to the Head of Paid Service for decision.

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

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

1. The Council Establishment

Directors, Assistant Directors and, Lead Commissioners are responsible for the provision of timely and accurate information about Establishment changes so that accurate lists are maintained and that ensure establishment costs are within budget

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

2.1 Officer Employment Procedure Rules.

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

2.1.1 *Recruitment and appointment*

(a) Declarations

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

(b) Seeking support for appointment

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

2.1.2 **Recruitment of head of paid service and chief officers**

Where the council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the council will:

(a) draw up a statement specifying: <ul style="list-style-type: none"> (i) the duties of the officer concerned; and (ii) any qualifications or qualities to be sought in the person to be appointed; (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and (c) make arrangements for a copy of the statement mentioned in paragraphs (1) and 2(a) to be sent to any person on request	Appointment of Chief Officers is a functions reserved to the Remuneration Committee and an external appointment process will encompass this process
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2.1.3. **Appointment of head of paid service**

(a) The full council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee or sub-committee of the council. That committee or sub-committee must include at least one member of the executive.	Appointment of Chief Officers is a functions reserved to the Remuneration Committee which includes at least one member of the executive.
(b) The full council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.	Appointment of Chief Officers is a functions reserved to the Remuneration Committee which includes at least one member of the executive. Well founded objections from any member of the executive which are substantiated will be communicated to Remuneration Committee so that action can be taken.

2.1.4. **Appointment of chief officers**

(a) A committee or sub-committee of the council will appoint chief	Appointment of Chief Officers is a functions reserved to the
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officers. That committee or sub-committee must include at least one member of the executive.	Remuneration Committee which includes at least one member of the executive.
(b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the executive has been received.	Appointment of Chief Officers is a functions reserved to the Remuneration Committee. Well founded objections from any member of the executive which are substantiated will be communicated to Remuneration Committee so that action can be taken.

2.1.5. *Other appointments*

(a) Officers below chief officer.

Appointment of officers below chief officer (other than assistants to political groups) is the responsibility of the head of paid service or his/her nominee and may not be made by councillors.	HR will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions
The head of paid service will consult the Chair of the Chief Officers Appointments Panel before making an appointment of deputy Chief Officers.	Appointment of deputy Chief Officers will be reported to Remuneration Committee

(b) Appointment of political assistants

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

(a) Suspension. The head of paid service, monitoring officer and chief finance officer may be suspended whilst an	Human Resources will be responsible to ensure that the correct processes are followed
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investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.	
(b) Independent person. No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.	Human Resources will be responsible to ensure that the correct processes are followed
(c) Councillors will not be involved in the disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.	Human Resources will be responsible to ensure that the correct processes within the Council's contractual Terms and Conditions are followed

2.1.7. *Dismissal*

Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.	Human Resources will be responsible to ensure that the correct processes as allowed for within the Council's contractual Terms and Conditions are followed.
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2.2 Varying Terms and Conditions of employment

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

HR will ensure that contractual variations are properly authorized and allowed for within the Council's contractual Terms and Conditions and are made on an accurate and timely basis

2.3 Leavers

Assistant Director HR will ensure that Leavers are managed in accordance with the Council's contractual Terms and Conditions and changes are made on an accurate and timely basis.

3 Employee Records

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

4. Salaries & allowances payable to Council employees and Pensioners

As Is	To Be	Comment
13.2 The Head of HR Shared Services will ensure that arrangements are made to calculate and pay all remuneration, pensions, compensation and other payments to current and former employees and for maintaining salary payroll for Schools that purchase the Traded Service.	HR will ensure that properly authorised payments for Salaries and Allowances shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis	Tighter wording

5. Members Allowances

As Is	To Be	Comment
13.9 The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form.	The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form. HR will ensure that these payments are made on an accurate and timely basis	Tighter wording
13.10 The Director of Corporate Governance is responsible for notifying the Heads of HR of any changes to Members' Allowances	The Monitoring Officer will be responsible for notifying HR of any changes to Members' Allowances	Tighter wording

Pensions Administration

As Is	To Be	Comment
13.4 On an annual basis, the Head of HR shall require that each pensioner residing overseas provides a life certificate.	HR will ensure that on an annual basis that each pensioner residing overseas provides a life certificate.	Tighter wording
	HR will ensure that on an annual basis that the Council's discretions under Regulation 66 of LGPS (administration) regulations 2008 and LGPS (Miscellaneous) Regulations 2012 are provided to the Chief Finance Officer for agreement.	New
13.2 The Head of HR Shared Services will ensure that arrangements are made to calculate and pay all remuneration, pensions, compensation and other payments to current and former employees and for maintaining salary payroll for Schools that purchase the Traded Service.	HR will ensure that properly authorised payments for Pensions shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis	Tighter wording

Section 6

Unused

As Is	To Be	Comment
13.1 All appointments shall be made in accordance with the Council's contractual terms and conditions (i.e. pay, grading, allowances etc).	replace	Section 4 para 2.1.3, 2.1.4, 2.1.5
13.3 Corporate Directors and Heads of Service must provide to the Head of HR Shared Services:-		
<ul style="list-style-type: none"> the names and specimen signatures of all officers authorised to sign HR records; delete 	delete	Authorisation process codified through HR Connect workflows, which includes electronic authorisation via Barnet e-mail account. Managers 'tagged' on SAP
<ul style="list-style-type: none"> relevant details of appointments, leavers and any other change of circumstances that may affect payment 	replace	Section 4 para 2.2, 2.3
<ul style="list-style-type: none"> details of all work related absences due to sickness, accidents on or off duty; 	replace	Section 4 para 3
<ul style="list-style-type: none"> details of special leave without pay or other paid/unpaid leave or absence; delete 	replace	Section 4 para 3
when required, overtime and	delete	Authorisation process codified through HR Connect workflows, which includes

certified time-sheets for staff paid at hourly or weekly rates, at intervals and in the format determined by the Head of HR Shared Services. Delete		electronic authorisation via Barnet e-mail account. Managers 'tagged' on SAP
<ul style="list-style-type: none"> School Governing Bodies of non community schools shall be responsible for assessing teachers' remuneration and the Head of HR Shared Services shall maintain teachers' salary and pensions for Schools that purchase the Traded Service. 	Delete	Traded Service
13.5 Salaries and wages will be paid direct to the employee's bank account. Pensions and gratuities shall be at the discretion of the Head of HR Strategy. All payments shall be made direct to the person concerned unless that person authorises otherwise.	Delete	Pay direct to nominated bank account is a term of employment.
13.6 Payment will be paid on contractual dates. The Head of HR Shared Services has the discretion to change payment date.	delete	Pay Date is contractual
13.7 All cost centre managers should use SAP to periodically verify correct payments to staff.	Replace	Section 4 para 3
13.8 All claims for payment	delete	Either delivered through ESS/MSS or

<p>of car allowances shall be approved through SAP self service or through a paper format approved by the Head of HR Strategy. The names of certifying officers and specimens of their signatures shall be forwarded by Corporate Directors and Heads of Service to the Head of HR Shared Services. The certifying officer must be satisfied that all expenses claims are valid and that the allowances should be paid by the Council before authorising the payment.</p>		<p>where manual Authorisation process codified through HR Connect workflows. Managers 'tagged' on SAP</p>
<p>13.11 Employees are responsible for providing HR Shared Services with accurate personal details including bank account details.</p>	<p>delete</p>	<p>Pay direct to nominated bank account is a term of employment</p>
<p>13.12 In accordance with procedures agreed by Audit, the Pension Manager can write off debts resulting from overpayment of pension to a maximum of £500 per debtor and a total of £5,000 per year.</p>	<p>Delete</p>	<p>Dealt with in Officer Delegations</p>

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BARNET COUNCIL
CODE OF CONDUCT FOR MEMBERS

PART 1

GENERAL PROVISIONS

Introduction and interpretation

1. (1) This Code applies to **you** as a Member of London Borough of Barnet.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:
- "meeting" means any meeting of:-
- (a) the Council;
- (b) the executive of the Council;
- (c) any of the Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
- "Member" includes a Co-opted member and an Appointed Member.
- (5) As a Member or Co-opted Member of London Borough of Barnet you have a responsibility to represent the community and work constructively with the Council's staff and partner organisations to secure better social, economic and environmental outcomes for all.
- (6) In accordance with the provisions of the Localism Act 2011, when acting in this capacity you must be committed to behaving in a manner that is consistent with the following principles to achieve best value for the borough's residents and maintain public confidence in this authority:-

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

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

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

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

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

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

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Scope

2. (1) You must comply with this Code whenever you **are acting in your capacity as a Member of the council.**

General obligations

3. (1) You must treat others in a manner which is consistent with the obligations set out in paragraphs 1 (5) and 1 (6) above.
- (2) You must not:-
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);
- (b) bully any person;
- (c) intimidate or attempt to intimidate any person who is or is likely to be:-
- (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,
- in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
- (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
4. You must not—
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:—
- (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional

advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is:-

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

6. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) the Council's Chief Finance Officer; or

(b) the Council's Monitoring Officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

7. When reaching decisions you should -

(a) not act or cause the Council to act unlawfully, in such a manner as would give rise to a finding of maladministration, in breach of any undertaking to the Court, or for the advantage of any particular person or interest rather than in the public interest; and

(b) take into account all material information of which you are aware and then take the decision on its merits and in the public interest

PART 2

INTERESTS

7. (1) You have an interest in any business of your authority where either:-

(a) it relates to or is likely to affect:-

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body:

- (aa) exercising functions of a public nature;

- (bb) directed to charitable purposes;

- (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); or

- (dd) that is a private club, society, order, lodge, fellowship, institution or other association (for the avoidance of doubt, this category includes freemasons),

of which you are a member or in a position of general control or management;

- (iii) any employment or business carried on by you;

- (iv) any person or body who employs or has appointed you;

- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

- (ix) any land in your authority's area in which you have a beneficial interest;

- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:-

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is:-

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosable Pecuniary Interests

8.1 A pecuniary interest is a "Disclosable Pecuniary Interest" if it is of a description specified in Appendix 1 and either:

(a) it is the interest of you as a Member or

(b) it is an interest of:

(i) the Member's spouse or civil partner

(ii) a person with whom the Member is living as husband and wife, or

(v) a person with whom the Member is living as if they were civil partners,

and the Member is aware that the other person has that interest.

8.2 If you are in any doubt as to whether you should continue to participate in any matter, you should take advice from the Monitoring Officer at an early stage as to whether your circumstances permit continued participation.

8.3 You, or some firm or body with which you are personally connected may have professional, business or other personal interests within the area for which the Council is responsible. Such interests may be substantial and closely related to the work of the Executive or one or more of the Council's committees.

8.4 You should not seek, or accept, membership of the Executive or any such committee, if that would involve you in disclosing an interest so often that you could be of little value to the Executive or committee, or if it would be likely to weaken public confidence in the duty of the Executive or committee to work solely in the general public interest

Effect of disclosable pecuniary interests on participation

9.1 Where you are present at a meeting of the Council and you are aware that you have a disclosable pecuniary interest in any matter to be considered, or being considered, then:

(a) if the interest is not entered on the Council's register of interests you must (subject to the provision relating to sensitive interests) disclose the interest to the meeting, and

(b) if the interest is not entered on the Council's register of interests and is not the subject of a pending notification you must notify the Monitoring Officer of that interest before the end of 28 days beginning with the date of disclosure and

(c) (i) (subject to any current dispensation) may not participate (or participate further) in any discussion of the matter at the meeting or

(ii) participate in any vote (or vote further) taken on the matter at the meeting

(iii) and must leave the room in which the meeting is being held

9.2 If a function of the Council may be discharged by you as a single member acting alone and you are aware that you have a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, in the course of discharging that function then

(a) if the interest is not entered on the Council's register of interests and is not the subject of a pending notification you must notify the Monitoring Officer of that interest before the end of 28 days beginning with the date when you became aware of the existence of the interest in relation to the business to be dealt with and

(b) you must not take any steps, (or further steps) in relation to that matter except for the purpose of enabling the matter to be dealt with otherwise than by you.

(c) decision-making by a single executive member is a matter of particular sensitivity, and if you have a disclosable interest in a matter on which you may take a decision you should wherever possible refer the matter to the Executive for a collective decision.

Other Interests

10.1 In addition to the above requirements, if you attend a meeting at which an item of business is to be considered and you are aware that you have a "non disclosable pecuniary interest or non-pecuniary interest" in that item, you must make verbal declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

10.2 You have a "non-disclosable pecuniary interest or non-pecuniary interest" in an item of business of your authority where –

(a) a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or

(b) it relates to or is likely to affect any of the interests listed in the Table in Appendix 2 of this Code, but in respect of a member of your family (other than a "relevant person") or a person with whom you have a close association and

that interest is not a disclosable pecuniary interest.

Gifts and Hospitality

- 11.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the Council.
- 11.2 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 11.3 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Council for this purpose.

PART 3

REGISTRATION OF MEMBERS' INTERESTS

Registration of Members' Interests

12. (1) Subject to paragraph 13, you must, within 28 days of:-

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

notify the Council's Monitoring Officer in writing of the disclosable pecuniary interests notifiable under the Localism Act 2011 and details of your other personal interests where they fall within the descriptions set out in paragraph 8 so that they may be included in the Council's register of members' interests

(2) Subject to paragraph 13, you must, within 28 days of becoming aware of any new interest or change to any interest required to be registered under paragraph (1), register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

Sensitive information

13. (1) Where you consider that the information relating to any of your personal or declarable pecuniary interests is sensitive information, and the Council's Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

APPENDIX 1

DISCLOSABLE PECUNIARY INTERESTS

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. For those purposes `Disclosable Pecuniary Interests` are defined as follows:

<i>Interest</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a Member in carrying out duties as a member, or towards the election expenses of a Member. This includes any payment of financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1974.
Contracts	Any contract which is made between the relevant person and a body in which the relevant person has a beneficial interest and the relevant authority— (a) under which goods or services are to be provided or work is to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to a Member's knowledge) - (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to a Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

APPENDIX W

Members' Planning Code of Practice

1. Introduction

- 1.1 This Code of Practice applies to any meeting of the Authority, or, its Executive, committees, sub-committees, joint committees or area committees when considering any Planning matters, including applications or enforcement. All references to 'committee' or 'sub-committee' within this Code will be construed to refer to such meetings.
- 1.2 This Code of Practice has been prepared for all Members who may attend Planning meetings, whether as members of the Planning and Environment Committee or an Area Planning Sub-Committee, or in any other capacity, including making representations to such a committee as a Ward Member, or as an applicant, or an interested party. However, the Code of Practice applies at all times when members are involving themselves in the Planning process and not just at the committee meetings.
- 1.3 The aim of this Code of Practice is to ensure that in the Planning process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Member Code of Conduct and, if there is any apparent conflict, the requirements of the Code of Conduct take priority.
- 1.4 If a Member were to behave in a way not compliant with this Code of Practice there could be the possibility of:
- Putting the Council at risk of proceedings on the legality or maladministration of the related decision; and/or
 - The Member being at risk of an allegation of breach of the Member Code of Conduct.

2. Planning Decisions

- 2.1 Decisions that the Council makes about Planning applications can be quite controversial. Any development is likely to have significant impact on the neighbourhoods where people live and therefore may be subject to close public scrutiny.
- 2.2 Planning decisions can be appealed to the Secretary of State, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. There is also a risk that Members can be named in a report made to the Standards Committee for breach of this Code. The Barnet Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. Members are required to act in a quasi judicial role, without reference to their political considerations and taking into account the issues that the law says are relevant to the decision.
- 2.3 When Members are making Planning 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. If Members indicate which way they intend to vote before that, they are disbarring themselves from taking part in the decision.
- Open and Transparent: The rules about interests in the Barnet Code of Conduct apply with particular relevance to Members who are making Planning decisions. It is very important that, in relation to each matter, Members consider whether they have an interest which should be explained to the public, or which might prevent them from participating in the committee's deliberations and the decision. A Member must seek advice as soon as s/he thinks that there may be any doubt about this.
- Reasonable: Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken. This applies to all decisions, but the need is greatest where permission is refused, or, where an application is approved but either the application appears to be contrary to the Council's policies or an application which appears similar has recently been refused.
- Impartial: Most Planning decisions involve applying policies to particular situations. The policies have to be applied impartially without reference to the identity of the individuals concerned. Planning decisions are decisions about the use of land, not the people who own it. The circumstances of the individuals will only be relevant in very exceptional cases. Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on Planning Committees.
- Consider only the Planning issues: The law requires Planning decisions to be made on the basis of what the legislation calls 'material considerations'. General issues that are not material Planning considerations and should not be considered may include matters such as:
 - the ownership of the application site;
 - private property rights e.g. rights of way and boundary disputes (such considerations are legal matters on which objectors should consult their solicitors or other advisers since it is not possible for Officers of the Council to advise on such rights);
 - the fact that an applicant has carried out unauthorised development in the past moral objections (such as activities that have the potential become addictive for instance betting shops, amusement arcades etc);
 - effects on property and land values; the belief that an application is submitted by an owner with the intention of selling the property at an enhanced value.

- 2.4 This Code of Practice is supplementary to the Barnet Members' Code of Conduct. It is intended to show how the general principles in the Code should be applied to Planning decisions. A breach of this Code may be a breach of the Members' Code
- 2.5 This Code of Practice applies equally to co-opted members of Council committees as it does to elected members.
- 2.6 The Planning system can be challenged in a variety of ways, both formal and informal, and before, during and after committee. This includes in Planning appeals or in courts of law. Therefore Members must bear the contents of this Code in mind through all the stages of the Planning process.

3. General Advice

- 3.1 The following general advice must be considered by all Members likely to become involved in the Planning process in any way:
- An application relating to a premises in the vicinity where a Member, (or their close associate) lives so that s/he is affected more than the majority of inhabitants of the Ward is likely to involve a non-pecuniary//non-disclosable pecuniary interest **and potentially a disclosable pecuniary interest.**
 - A Member being a frequent visitor to the premises in a personal capacity is likely to involve a non-pecuniary/non-disclosable pecuniary interest **and a potentially disclosable pecuniary interest.**
 - 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 non-pecuniary/non-disclosable pecuniary interest **and potentially disclosable pecuniary interest.** (see also section 7 on fettering discretion below)
 - A Member having any doubts as to how the Planning Code of Practice applies should seek advice from the Monitoring Officer or their representative as early as possible.
 - The Council's Member/Officer Protocols must be abided by at all times.

4. Members of the Planning and Environment Committee and Area Planning Sub-committees

- 4.1 The role of members of the committee and sub-committee(s) is to make Planning decisions openly, impartially, with sound judgement and for justifiable reasons. This applies equally to policy decisions before the Planning and Environment Committee as it does with applications. Therefore, Members:
- a) Must not make a decision for party political reasons and should avoid any action that may give the perception that this is the case;
 - b) Should make themselves familiar with sites and proposals;
 - c) May listen to points of view expressed to them but must not, if they wish to be free to debate and vote on an application at committee, commit themselves to support or object to any proposal; since to do so is to

prejudge the application in the absence of all the relevant information and advice;

- d) Should listen to the Ward Member if s/he is a member of the Committee, but should not defer to him/her nor give him/her preferential status. (see paragraph 6, below);
- e) Should determine applications in accordance with the advice given to them by their professional Officers unless they have good Planning reasons, in knowledge of all material considerations, to take a different decision.
- f) Who receive correspondence about applications should ensure that copies are made available to the Planning Officers as early as possible;
- g) Must not encourage any member of the public (including but not limited to those speaking at the sub-committee) to communicate with them orally or in writing other than through the committee or sub-committee's procedures;
- h) Must make their decision only after due consideration of all the information and only after the presentation of the application at the sub-committee (or committee) and thus must be present for the duration of the presentation, any oral representations, debate and other deliberations upon an item in order to be able to vote on that item;
- i) Must attend all training relevant to their role as Planning Committee members offered by the Council;
- j) Should not meet with applicants or objectors other than at meetings arranged through the Council. A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee (or committee)
- k) Should, if in any doubt about whether s/he needs to declare an interest, seek the Monitoring Officer's advice as soon as possible and, in any event, prior to the commencement of the sub-committee (or committee) meeting. Noting that:

- i) The definitions of interests in the context of Planning are the same as for all other areas of the Council's work, and as, contained within the Council's Constitution;
- ii) A non-pecuniary interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;
- iii) A Member should not, if s/he has a disclosable pecuniary interest in an application sit on the sub-committee (or committee) when it is considering that application.
- iv) A Member may sit on a sub-committee (or committee) and consider an application if s/he has a **non-pecuniary or non disclosable pecuniary interest**;
- v) As regulatory matters such as Planning are particularly

sensitive, it is recommended that Members adopt a particularly cautious approach.

4.2 When declaring an interest at a Planning committee or sub-committee meeting, taking the recommended cautious approach could include considering that:

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

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

4.4 Decisions on Planning applications can only be made following a full explanation of the material Planning considerations and information on the relevance, e.g. the development plan, national guidance and consultations, at Committee. It follows from this statement of principle that it would not be appropriate for a Member to debate or vote on a matter if s/he has not been present to hear the full presentation and debate on the matter including the Officer update report. If a Member has missed part of the consideration of an item, the Member should abstain when the vote is taken. To avoid Members breaching this guidance inadvertently, the Chairman should be prepared to consider adjourning briefly to allow one or more comfort breaks during meetings.

4.5 There is a duty to give reasons for Planning application determinations at the time the decision is made where the determination is contrary to the Officers recommendation, or, to an objective policy approved for development control purposes, or, that in the opinion of the legal officer is likely to give rise to a liability to pay compensation or an award of costs on appeal. These reasons should be:

- a) Established, defined and described at the time;
- b) Clear and convincing and thus such reasons as "established local need" or "satisfy the personal need" are inadequate;
- c) Rooted in a clear and convincing statement of reasons for departures from policy or the Officers recommendation;
- d) Given with an awareness of the difficulties which will be faced in the future by Officers who will have to explain why they must continue to recommend refusal in circumstances where a similar application has been approved against policy;
- e) Given with an awareness that Members may be asked to appear as a witness for the Local Planning Authority, should an appeal be lodged

against the decision and that appeal be heard by way of a Planning Inquiry.

5. Members with a pecuniary interest

5.1 If an application is submitted by or on behalf of a Member then s/he must inform the Assistant Director of Planning and Development Management in writing.

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

- a) Is personally affected by an application and has a disclosable pecuniary interest. S/he may make written representations to the sub-committee (or committee) and may attend the meeting to make representations, answer questions and give evidence in the same way that the public are allowed to attend the meeting for the same purpose. Unlike the public, such Members must withdraw from the committee room immediately afterwards.
- b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;
- c) Must conform to the usual deadlines for representations;
- d) Must not seek or accept, or appear to seek, preferential treatment;

5.3 Any Member who has written formally in respect of a Planning application, either as objector or supporter, is likely to have committed him/herself to refusing or approving the application. Consequently, if a member of the relevant committee or sub-committee, s/he is probably no longer in a position to take the decision because s/he is not seen to be open-minded as the law requires. S/he should leave the room whilst the item in question is before the committee or sub-committee.

5.4 A Member of a committee or sub-committee that is to consider a Planning application, who lives in close proximity to the application site, will have a potentially disclosable pecuniary interest to declare. This means that if s/he has such an interest, with or without exercising a right to speak, s/he can not take part in the decision and must declare the interest and leave the meeting room whilst the application is discussed and decided.

6. Ward Members

6.1 Ward Members are inevitably in a difficult position where development is proposed in the locality that they represent. Ward Members are particularly likely to be subject to lobbying by local residents, and to single issue pressure groups. On the other hand, they have been elected to speak for the people in that Ward and they have often canvassed on particular issues which are relevant to a Planning application. Their opinions therefore are valuable and influential.

6.2 Ward Members have a special duty to their constituents, including those who did not vote for them. It is clearly appropriate for Ward Members to listen to a constituent and it is perfectly proper to be influenced by what a constituent has to say but it is not appropriate to "advocate" on behalf of a constituent. That may make a Member seem to be unfair or prejudiced.

- 6.3 Committees and sub-committees should respect the views of the Ward Member but those views should not necessarily prevail; they have to be weighed in the balance with all the other issues.
- 6.4 No form of words could cover every nuance of these situations. Each local Member has to observe an appropriate balance between being an active Ward Member and his/her overriding duty to the whole local community.
- 6.5 Maintaining that balance means that, while a Ward Member may be influenced by the views of the others, it is his/her responsibility alone to decide what view to take on any Planning determination which committee and sub-committee members have to decide on the basis of the statutory Development Plans and other material Planning considerations.
- 6.6 It is those Planning considerations, interpreted in the interest of the whole locality which must be the overriding consideration in debating and determining a Planning application
- 6.7 It is up to the Chairman to decide when any Member (including a Ward Member) should speak but it is not appropriate for a Ward Member to speak both first and last.
- 6.8 A Ward Member not sitting on the committee or sub-committee and members of the public enjoy speaking rights in accordance with the Council's constitution.

7. Avoiding fettering discretion and dealing with lobbying

- 7.1 Members are frequently approached by applicants and objectors who wish either to 'lobby' Members or to ask advice. It is very important that no Member fetters his/her discretion and therefore his/her ability to participate in decision-making by making up his/her mind, or appearing to have done so, prior to the matter's formal consideration and the hearing of the Officer's presentation and the evidence and arguments from applicants and interested parties at the meeting.
- 7.2 If a member of a committee or sub-committee is approached by any means by persons wanting to lobby them regarding a Planning application to be heard by that committee then the Member is strongly advised to:
 - a) Explain s/he cannot discuss the matter;
 - b) Refer the person to his/her Ward Member and/or Planning Officer;
 - c) Make and keep a written record of these instances in case the matter proceeds to an appeal;
 - d) Declare the circumstances of the lobbying at the meeting considering the item;
 - e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Planning Officer;
 - f) Avoid giving any commitment or impression of a commitment; that s/he holds any particular view about the matter or how s/he will vote;
 - g) Where possible, provide information on the Council's general Planning

policies and procedures only.

- 7.3 Members, if they wish to be free to debate and vote on an application, should avoid organising support for or opposition to a Planning matter to be determined by the committee or sub-committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.
- 7.4 If a Member realises that s/he has fettered his/her discretion by some comment or action then this must be declared and the Member should not take part in the discussion on that item or vote, s/he should withdraw after making their comments. This withdrawal will avoid any suggestion that other members of the committee may have been influenced by his/her continuing presence.
- 7.5 An important element of the Members' Code of Conduct is the general obligation not to "use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage." In terms of the Planning process, lobbying of Members can lead to the impartiality and integrity of a Member being called into question. The acceptance of lobbying can cause public mistrust of Local Planning Authorities. Therefore, the actions and conduct of Members should be seen to be appropriate and above suspicion to an impartial outside observer.
- 7.6 Decisions should be taken in the interests of the Borough as a whole and should not be improperly influenced by, or, in favour of any person, company, group or locality. The key is to demonstrate that each Member's decision was taken on relevant considerations alone.
- 7.7 No Member should accept any gifts or hospitality from an applicant or objector in a Planning matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum, its acceptance is declared as soon as possible and it must be recorded within 28 days of its receipt in the Member's register of interests if its value is over £25.
- 7.8 Members and substitute members of Planning committees should discourage applicants or agents from approaching them, should aim to minimise social contacts with known developers or agents, and refrain from such contacts when an application has been submitted.
- 7.9 A Member will not have fettered his/her discretion by:
- a) Receiving or listening to viewpoints from applicants or objectors;
 - b) Making comments to applicants, interested parties, other Members, or Officers provided the comments do not amount to pre-judging and the Member makes it clear that s/he is keeping an open mind;
 - c) Seeking information through any alternative channel other than the Governance Service;
 - d) Simply being a member of a group or organisation that may make representations on a particular matter before a Sub-committee where there is no direct impact on the Member and s/he is not otherwise fettered by any actions or comments made in relation to the group's representations. However the Member should make it clear to both the

group or organisation and the committee that s/he has reserved judgement on the matter prior to its consideration at committee or sub-committee.

8. Site Visits

- 8.1 As a general principle, Members are encouraged to familiarise themselves with the site and surroundings of Planning applications under consideration by a committee or sub-committee.
- 8.2 Site visits should normally be pre-arranged and carried out with fellow committee or sub-committee members at an organised date and time. The purpose of the visit is for Members to view the site accompanied by an Officer who will ensure that the issues raised by the application are drawn to the Member's attention
- 8.3 If site visits are made by individual Members then they should be conducted from the public highway or public open space. If a Member believes that s/he cannot make a site visit without entering into private land and the expected benefit is substantial then s/he should contact the case officer and request a pre-committee site visit or, if the application is already on a committee or sub-committee agenda, propose deferral for a committee or sub-committee site visit at the meeting.
- 8.4 Invitations to Members from applicants/agents or objectors or other groups to visit the sites or surroundings of Planning applications or attend private meetings or briefings should generally be declined unless it is arranged by Officers as an official committee visit/presentation. If a Member does decide to accept such an invitation s/he should advise the Head of Planning and Development well before the visit takes place and take particular care about expressing an opinion that may be taken as indicating that s/he has already made up his/her mind on the issue before s/he has been exposed to all the evidence and arguments. In such situations, s/he should restrict him/herself to giving procedural advice, including advising those who are lobbying that they should write to the case officer, in order that their opinions can be included in the Officer's report to the committee. The public's expectation is that Members taking the decision will take account of all the evidence presented before arriving at a decision and to commit oneself one way or the other before hearing all the arguments makes one vulnerable to an accusation of partiality.

9. The Ombudsman

- 9.1 The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.
- 9.2 In essence, however, the Ombudsman cannot challenge the decision made by any Planning committee but can challenge the way in which that decision was made. If a committee or sub-committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to "maladministration." If the Ombudsman also considers that injustice has been done, they then have a variety of powers to call for a remedy.

- 9.3 However, that does not mean that the Ombudsman has the power to overturn Planning decisions; only the courts of law and Planning Inspectors can do that and only in strictly defined circumstances.
- 9.4 The potential for maladministration, however, concerns the Council's Monitoring Officer as, amongst other things, this could result in an award of compensation.

10. Sources:

This Code follows the following statutory requirements:

- The Local Authorities (Model Code of Conduct) Order 2007
- LGA (2002) Probity in Planning (Update)
- The Relevant Authorities (General Principles) Order 2001
- Localism Act 2011

and draws on the following guidance:

- LGA – Probity in Planning – May 2009
- The Code of Conduct: Guide for Members – May 2007
- DCLG Report: Councillor Involvement in Planning Decisions – January 2007
- AcSES Press Release: Flawed DCLG Report on Councillor Involvement in Planning Decisions – February 2007
- Cleaner, Greener, Transport and Development Overview and Scrutiny Committee Report: The Quality of Planning Decisions made at Planning Committees Review
- LGA(2005) Member Engagement in Planning Matters
- AcSES Guidance model
- Positive Engagement: A guide for Planning Councillors (2005)
- Connecting Councillors with Strategic Planning Applications
- Localism Act 2011

APPENDIX X

Members' Licensing Code of Practice

1. Introduction

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

Licensing Act 2003

Gambling Act 2005

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

London Local Authorities Act 1990 in relation to Street Trading

London Local Authorities Act 1991 in relation to Special Treatments Premises

Hypnotism Act 1952

London Local Authorities Act 2007 in relation to Street Trading

Manufacture and Storage of Explosives Regulations 2005

Motor Salvage Operators Regulations 2002

Poisons Act 1972

Scrap Metal Dealers Act 1964

Vehicles (Crime) Act 2001

Safety at Sports Grounds Act 1975

- 1.2 This Code of Practice has been prepared for all Members who may attend Licensing Sub-committee meetings whether as Members of a Licensing Sub-committee, or in any other capacity, including making representations to such a Sub-committee as a Ward Member, or as an Applicant or an Interested Party. It applies at all times when Members are involving themselves in the Licensing and Gambling process and not just at meetings.
- 1.3 The aim of this Code of Practice is to ensure that in the Licensing process there are no grounds to suggest that a decision has been in any way biased, partial or ill-founded. It should be applied in accordance with the Member Code of Conduct and, should there be any apparent conflict, the requirements of the Member Code of Conduct take priority.
- 1.4 If a Member were to behave in a way not compliant with this Licensing Code of Practice this can result in:
- Putting the Council at risk of the legality and/or maladministration of the related decision; and/or
 - The Member at risk of an allegation of breach of the Member Code of Conduct.

2. Licensing Decisions

- 2.1 Decisions that the Council makes about Licensing matters can be quite controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.2 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. There is also a risk that Members can be named in a report made to the Group Leaders Panel for breach of this Code. Barnet's Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. 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.
- 2.3 When Members are making Licensing decisions, they must be:-
- a) Open-minded: a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself. If Members indicate which way they intend to vote before that, they are disbaring themselves from taking part in the decision.
 - b) Open and Transparent: The rules about interests in the Barnet Code of Conduct apply with particular relevance to Members who are making Licensing decisions. It is very important that in relation to each matter, Members consider whether they have an interest which should be explained to the public, or which might prevent them from participating in the committee's deliberations and the decision. A Member must seek advice as soon as s/he thinks that there may be any doubt about this.
 - c) Reasonable: Another aspect of the requirement for openness is the requirement on the Council to give clear and accurate reasons for any decision that has been taken. This applies to all decisions, but the need is greatest where permission is refused, or, where an application is approved but either the application appears to be contrary to the Council's policies or an application which appears similar has recently been refused.
 - d) Impartial: Most Licensing decisions involve applying policies to particular situations. The policies have to be applied impartially without reference to the identity of the individuals concerned. Members should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members, who do not feel that they can be impartial in this way, should consider whether they are best suited to serve on the Licensing Committee.
- 2.4 This Code of Practice is supplementary to the Barnet Members' Code

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

- 2.5 This Code of Practice applies equally to co-opted members of Council committees as it does to elected members.

3 General Advice

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

- An application relating to a premises in the vicinity where a Member, (or their close associate) lives so that s/he is affected more than the majority of inhabitants of the Ward is likely to involve a non-pecuniary interest and potentially a disclosable pecuniary interest.
- A Member being a frequent visitor to the premises in a personal capacity is likely to involve a non-pecuniary interest and potentially a disclosable pecuniary interest.
- 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 non-pecuniary interest and potentially a disclosable pecuniary interest. (see also section 7 on fettering discretion below)
- A Member having any doubts as to how the Licensing Code of Practice applies should seek advice from the Monitoring Officer or their representative as early as possible.
- The Council's Member/Officer Protocols must be abided by at all times.

4. Members of the committee and sub-committees:

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

- a) Must not make a decision for party political reasons and should avoid any action that may give the perception that this is the case;
- b) Must not encourage any member of the public (including but not limited to those speaking at the sub-committee) to communicate with them orally or in writing other than through the sub-committee's procedures;
- c) Must make their decision only after due consideration of all the information and only after the presentation of the application at the sub-committee (or committee) and thus must be present for the duration of the presentation, any oral representations,

debate and other deliberations upon an item in order to be able to vote on that item.

- d) Must attend all training relevant to their role as Licensing Committee members offered by the Council;
- e) Should not meet with applicants or interested parties other than at meetings arranged through the Council. A written record should be kept of any such discussions that take place prior to the meeting of the sub-committee
- f) Should, Members have any doubt about whether they need to declare an interest, they should seek the Monitoring Officer's advice as soon as possible and in any event, prior to the commencement of the sub-committee meeting. Noting that:
 - i. The definitions of disclosable pecuniary, non-pecuniary interest and non-pecuniary interests in the context of Licensing are the same as for all other areas of the Council's work, and, as provided in the Members' Code of Conduct, contained within the Council's Constitution;
 - ii. A non-pecuniary interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;
 - iii. A member should not if s/he has a disclosable pecuniary interest in an application sit on the sub-committee considering that application.
 - iv. A Member may sit on a sub-committee and consider an application if they have a **non pecuniary interest** which is **not prejudicial**, but are advised to decline to sit on the sub-committee.
 - v. Are advised not to sit on a sub-committee when that sub-committee is considering an application in the Member's Ward, to avoid accusations of pre-determination and to reduce the risk of legal challenge and/or to reduce the possibility of decisions being taken on the basis of political judgement. This will enable Ward Members to represent their constituents at committee hearings.
 - vi. Members may sit on a sub-committee if an application is for premises in a neighbouring or other ward **only** if the premises are not in the vicinity of where the Member lives.
 - vii. As regulatory matters such as Licensing, Gambling and Sex Establishments are particularly sensitive, it is recommended that Members adopt a particularly cautious approach.

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

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

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

5. Members with a personal (and prejudicial) interest

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

- a) Is personally affected by an application and has a disclosable pecuniary interest. S/he may make written representations to the sub-committee and may attend the meeting to make representations, answer questions and give evidence, in the same way that the public are allowed to attend the meeting for the same purpose. Unlike the public, such Members must withdraw from the committee room immediately afterwards.
- b) May appoint someone to represent him/her if s/he prefers and are advised that this is often the simplest and therefore the preferable way to proceed;
- c) Must conform to the usual deadlines for interested parties;
- d) Must not seek or accept, or appear to seek, preferential treatment;

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

6. Ward Members

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

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

- a) Identify the person(s) whom they represent in the form of e.g. Mr X of Smith Street or Mrs Z of Jones Lane
- b) Have a written record of their constituent's concerns. This may

be in the form of an email or letter from the constituent, or the Member's note of a telephone conversation or personal meeting. Should the sub-committee hearing result in an appeal it may be necessary for the Member to substantiate the representations they have made, and documentary evidence will be necessary.

- c) Use their judgement and, as far as possible, adhere to the concerns of the interested parties and refrain from self-expression.

6.3 Members representing constituents in respect of Licensing matters must also:

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

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

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

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

7. **Avoiding fettering discretion and dealing with Lobbying**

- 7.1 Members are frequently approached by applicants and interested parties who wish either to 'lobby' Members or to ask advice. It is very important that no Member fetters his/or her discretion and therefore his/her ability to participate in decision-making by making up his/her mind, or appearing to have done so, prior to the matter's formal consideration and the hearing of the officer's presentation and the evidence and arguments from applicants and interested parties at the sub-committee.
- 7.2 If a sub-committee member is approached by any means by persons wanting to lobby them regarding a Licensing matter to be heard by that sub-committee then the Member is strongly advised to:
- a) Explain they cannot discuss the matter;
 - b) To refer the person to their Ward Member (not being on the sub-committee) and/or Licensing Officer;
 - c) Make and keep a written record of these instances in case the matter proceeds to an appeal;
 - d) Declare the circumstances of the lobbying at the meeting considering the item;
 - e) Pass any correspondence to the Monitoring Officer at the earliest opportunity and encourage the applicant to submit written information to the Licensing Officer;
 - f) Avoid giving any commitment or impression of a commitment; that they hold any particular view about the matter or how they will vote;
 - g) Where possible, provide information on the Council's general Licensing policies and procedures only.
- 7.3 Members, if they wish to be free to debate and vote on an application, should avoid organising support for or opposition to a Licensing matter to be determined by Committee and should not lobby other Members as such actions can easily be misunderstood by parties to the application and by the general public.
- 7.4 If a Member realises that s/he has fettered his/her discretion by some comment or action then this must be declared and the Member should not take part in the discussion on that item or vote. S/he may remain in the room but may prefer to withdraw.
- 7.5 An important element of the Members' Code of Conduct is the general obligation not to "use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage." In terms of the Licensing process, lobbying of Members can lead to the impartiality and integrity of a Member being called into question. The acceptance of lobbying can cause public mistrust of Local Licensing Authorities. Therefore, the actions and conduct of Members should be seen to be appropriate and above suspicion to an impartial outside observer.
- 7.6 Decisions should be taken in the interests of the Borough as a whole

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

- 7.7 No Member should accept any gifts or hospitality from an applicant or interested party in a Licensing matter. If a degree of hospitality is entirely unavoidable then the Member should ensure it is of a minimum, its acceptance is declared as soon as possible and it must be recorded in the Member's register of interests if its value is over £25.
- 7.8 Members of the Licensing Committee should discourage applicants or agents from approaching them, should aim to minimise social contacts with known Licensees or agents, and refrain from such contacts when an application has been submitted.
- 7.9 A Member will not have fettered his/her discretion by:
- a) Receiving or listening to viewpoints from interested parties
 - b) Making comments to applicants, interested parties, other Members, or Officers provided the comments do not amount to pre-judging and the Member makes it clear that s/he is keeping an open mind.
 - c) Seeking information through any alternative channel other than Governance Service.
 - d) Simply being a member of a group or organisation that may make representations on a particular matter before a Sub-committee where there is no direct impact on the Member and s/he is not otherwise fettered by any actions or comments made in relation to the group's representations. However the Member should make it clear to both the group or organisation and the committee that s/he has reserved judgement on the matter prior to its consideration at committee.

8. Guidance on Site Visits

- 8.1 Site visits by Licensing Sub-Committee Members are extremely rare and generally unnecessary and can put individual Members and the Licensing Authority at risk of accusations of bias.
- 8.2 Site visits are only likely to be appropriate where one would assist the sub-committee in making a more informed decision in a shorter time such as:
- Where the application to be considered by the sub-committee is factually complicated; or
 - Where a hearing is expected to last a full day or more; and
 - Where a site visit would materially reduce the time required by the sub-committee to clarify factual matters such as details of premises layout.
- 8.3 There are restrictions on the organisation and attendance at site visits,

which would be organised by Licensing Officers. These include that:

- a) Licensing Officers would accompany the sub-committee members
- b) Governance Service Officers would not be present
- c) All Sub-committee Members must visit at the same time
- d) The applicant would be requested to consent to allowing all interested parties to attend at the same time and if permission was not granted the visit could not proceed
- e) No refreshments or the like should be provided although the use of lavatories is permitted
- f) There should be no discussion as to the application, save as was strictly necessary to clarify factual queries eg regarding layouts.
- g) The site visit should only be an opportunity to seek information and to observe the site
- h) Applicants may be invited to make a factual presentation and respond to questions

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

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

9. The Ombudsman

- 9.1 The Local Government Ombudsman (more properly known as the Commissioner for Local Administration in England) has a variety of powers.

- 9.2 In essence, however, the Ombudsman cannot challenge the decision made by any Licensing Sub-committee but can challenge the way in which that decision was made. If a committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.

- 9.3 However, that does not mean that the Ombudsman has the power to overturn Licensing decisions; only the courts of law and can do that and only in strictly defined circumstances.

- 9.4 The potential for maladministration, however, concerns the Council’s Monitoring Officer as, amongst other things, this could result in an award of compensation.

10. Sources

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

- The Licensing Act 2003
- The Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1982 in relation to Sex Shops, Sex Cinemas and Sex Encounter Establishments
- London Local Authorities Act 1990 in relation to Street Trading
- London Local Authorities Act 1991 in relation to Special Treatments Premises
- Hypnotism Act 1952
- London Local Authorities Act 2007 in relation to Street Trading
- Manufacture and Storage of Explosives Regulations 2005
- Motor Salvage Operators Regulations 2002
- Poisons Act 1972
- Scrap Metal Dealers Act 1964
- Vehicles (Crime) Act 2001
- **Safety at Sports Grounds Act 1975**
- The Member Code of Conduct

and draws on the following guidance

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

APPENDIX Y

ANNEX 1 – CODE OF CONDUCT

1. Introduction

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

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

- 1.1. The National Joint Council for Local Government Services (the Green Book) and the Constitution Salaries Conditions of Service (Joint Negotiating Committee for Chief Officers of Local Authorities) says: "Employees will maintain conduct of the highest standards that public confidence in their integrity is sustained. Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers."
- 1.2. This Code of Conduct applies to all employees and workers under a contract with the council. Governing bodies of non-community schools and partner organisations in receipt of public funds should be encouraged to adopt this Code of Conduct.

2. Standards

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

3. Council Information

- 3.1. LBB policies on information management and security can be found in the employee handbook. These policies outline responsibilities for the management and security of Barnet Council information. It is a condition of employment at Barnet Council that staff work at all times in accordance with these policies. The policies may be amended and added to from time to time and the intranet site will show the most recent policies which staff must observe.

- 3.2. Line managers are responsible for ensuring that staff are supported in complying with council information management (IM) policies and staff should identify to their line manager any concerns that prevent compliance with the policies. The council will consider very seriously any alleged breaches of these policies which may be dealt with under the Council's Disciplinary Procedure.
- 3.3. It is generally accepted that open and transparent government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Staff must be aware of the authority's policies and of their duties in relation to the handling of both personally and commercially sensitive information. If in doubt guidance should be sought from management before information is disclosed.
- 3.4. The council has a process for dealing with information requested under the Freedom of Information Act, 2000 the [FOI Policy](#), [Media Request Protocol](#) and [FOI Staff Guidance](#) can be found by following the links. All requests made under the FOI legislation must be passed to the FOI team where they will be logged and tracked. Each directorate has an FOI Link Officer responsible for co-ordinating responses and ensuring that the directorate is compliant.
- 3.5. Staff should not use any information obtained in the course of their employment that is not in the public domain for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 3.6. Information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

4. Political neutrality

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

- 4.5. Staff, whether or not politically restricted, must follow every lawful expressed policy of the authority, regardless of their personal or political opinions.

5. Relationships

5.1. Councillors

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

5.2. The Local Community and Service Users

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

5.3. Contractors

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

5.4. Soliciting or being solicited for employment

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

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

6. Recruitment, Employment and promotion of Relatives

- 6.1. Staff involved in all types of recruitment, whether to permanent, or fixed term roles, should ensure that these selection decisions are made on merit. It would be unlawful for an employee to make an appointment or promotion which was based on anything other than the ability of the candidate to undertake the duties of the post.
- 6.2. In order to avoid any possible accusation of bias, the Council has agreed a policy on the Recruitment and Employment of Relatives which forms part of the Recruitment and Selection Guidelines. The aim of the guidelines is to ensure that high standards of conduct and good practice are maintained in the management of staff and working relationships across the Authority. It has been drawn up with due regard to the Council's Equal Opportunities Employment Policy. This policy applies to the recruitment, selection, appointment and promotion of "close relatives" of existing staff or in cases where two workers become "close relatives", e.g., marry, commit in the form of a Civil Partnership, or co-habit as partners.
- 6.3. The council recognises that some people meet their partner at work. However, in circumstances where a relationship develops with a colleague who works in close proximity and in particular where a couple are in a line management relationship, care must be taken that there is no unfair advantage or opportunity afforded. In these circumstances, the relationship must be declared to the Head of Service or Chief Officer as appropriate, and a decision will be made about the risk to the organisation and the possibility of redeployment of one individual.
- 6.4. The definition of "close relative" for the purposes of this policy statement includes spouse, partner, close family members, e.g., mother, father, sister, brother, offspring (whether child or adult) and other persons with whom there is a close personal relationship. Management discretion should be applied when considering extended family and also situations where one party would have a vested interest in the appointment of the other.
- 6.5. In the interests of the Council's service provision and for reasons of public confidence, the Council shall not allow an Officer to be involved in the recruitment, selection, promotion or appointment in the circumstances where the parties have a relationship as defined above. The recruiting manager will make a note of any declared relationship, the risks identified and mitigation of those risks (alternative panel member etc) and place this with the recruitment papers of the individual concerned.
- 6.6. In addition, it follows that this policy should be extended to all personnel-related matters and that any direct involvement in staffing matters relating to a close relative is also unacceptable e.g. disciplinary, grievance and grading, etc.

- 6.7. Similar standards should be applied to the selection and appointment to interim, agency, contractor or consultancy opportunities. The award of contracts should follow a transparent process as set out in the council's Procurement Rules.

7. Additional Employment

- 7.1. Staff should be clear about their contractual obligations and should not take outside employment or engage in any business which conflicts with the authority's interests. Staff must not seek to benefit personally by using experience, training or materials gained through their employment with the council to seek or accept work with Barnet's contractors, suppliers or partners.
- 7.2. Staff must not use the Council's contacts and suppliers in order to set up a venture on their own account, in competition with or to the detriment of the council.
- 7.3. Current policy in Barnet (but subject to each individual case being considered on its merits and in accordance with the Council's personnel procedures), states that in order to avoid any conflict of interests, all staff involved in any proposed Management Buy Out be given unpaid leave of absence pending a conclusion or, if directly involved in negotiating the buy out, be asked to resign from the Council's service
- 7.4. Staff must not take up any other employment or engage in any business without written approval.
- 7.5. Approval to undertake additional employment or engage in any business will depend on the circumstances of the Officer's particular situation. Any additional employment must not in the view of the Authority be likely to conflict with or be detrimental to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business. Situations where staff fail to seek permission or disclose details of their additional employment will be dealt with under the Council's Disciplinary Rules and Procedure and could result in the employee's dismissal for gross misconduct.
- 7.6. Assistant Directors and above are empowered to decide whether officers should be permitted to take up part-time employment or engage in any business in addition to their full or part-time appointment with the council. The decision in this respect should be communicated in writing to the employee concerned. A copy must be placed in their personal file. Requests from AD and above should be referred to the Chief Executive for a decision.
- 7.7. With regard to holders of job share or part-time posts, each case will be looked at on an individual basis by the AD or Chief executive as appropriate.
- 7.8. Where in doubt, staff should seek advice from their AD.

8. Intellectual property

8.1. Intellectual property is a generic term that includes inventions, applications, programmes, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

8.2. Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if: they have been made in the course of the employee's normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might reasonably be expected; or it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

9. Conflict of interest

9.1. Staff must declare any non-financial interests that they consider could bring about conflict with the authority's interests e.g. involvement with an organisation or pressure group which may seek to influence their authority's policies or acting as a School governor within schools maintained by the authority.

9.2. Where a worker believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue.

9.3. Further guidance notes will be issued with the declaration form that will be used to declare interests, to distinguish the types of membership of groups that require to be declared. It is not intended for staff to declare membership of legitimate political parties or Trade Unions.

9.4. Any interests, financial or otherwise which could conflict with the authority's interests must be declared e.g. involvement with an organisation applying for or receiving grant aid from the authority, or involvement with an organisation that is seeking to contract with the council or is already a contractor or client. It is accepted that some staff may be members of organisations and groups and have no active involvement in the group. However, there is an expectation that where an employee is involved in the running of the group or organisation, has a financial interest or otherwise, or is involved as a

Committee member, or in the decision making process, that this would be declared. Likewise those who are asked to undertake work in response to a request from a group or organisation of which they are a member would be wise to declare their membership.

- 9.5. Staff must declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct.
- 9.6. The completed declaration of interest form will be reviewed by an appropriate AD to consider any action that may be necessary before being placed on the employee's personal file.
- 9.7. The declaration of interest is not a historical document to reflect the situation at time of entry to the council's employment, rather an evolving document that must be kept up-to-date. It is the responsibility of the employee to ensure that as their circumstances change during the time of their employment that they keep their declaration up-to-date. Should an employee need to amend or review a declaration they must contact HR Connect and complete a new declaration and send this to the appropriate AD for review before it is placed on personal files.
- 9.8. Declaration forms are securely stored and would not be open for inspection to staff, other than by their Senior Managers (at AD level) or HR. These managers/HR may need to check declaration forms should either membership of an organisation or pressure group emerge or, should there be suspicion that a relationship has emerged which was relevant to the staff member's duties and is contrary to the Code of Conduct. FOI requests relating to such information, would be redacted to ensure identifying information is excluded..
- 9.9. Any member of staff who is in any doubt as to whether or not specific outside interest exists and should be declared should contact their AD for guidance.
- 9.10. At the start of each procurement exercise all staff must complete a new procurement declaration of interest form which must then be stored with the Service's Scheme of Delegation for Audit purposes. This completed form will also be reviewed by an appropriate AD to consider any action that may be necessary. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue and a potential breach of the councils Contract Procedure Rules.

10. Workers and Residents

- 10.1. In circumstances, where an LBB worker who is also a resident of LBB wishes to make an opinion about the policies being followed by the Council then such expressions of opinion must make clear that the person concerned is expressing an opinion as a resident of LBB and not as a Council worker.
- 10.2. The worker must ensure that they do not divulge any information that is not already in the public domain.

- 10.3. Where opinions are expressed on TV, film, website, social networking site or in photographs, the worker must not wear any badges or clothing which would readily identify the individual as a worker at the Council.
- 10.4. Should a worker express an opinion without making clear that he or she is making that opinion as a resident of LBB or he or she is wearing badges or clothing that readily identifies the individual as a worker at the Council, he or she may be subject to a disciplinary process.
- 10.5. Council staff who are Trade Union officials must not make statements about council business without making it clear that this is in their official union capacity in accordance with agreed working protocols.

11. Equal Opportunities in Employment

Barnet Council already has an existing policy on and is committed to equal opportunities. The aim of the Council's policy is to ensure that no job applicant or employee receives less favourable treatment on the grounds of age, sex, sexuality, disability, marital status, nationality, colour, race, religion or ethnic origins. Selection criteria and employment policies and procedures will be kept under review to ensure that individuals are selected, promoted, trained and treated on the basis solely of their relevant and relative merits, abilities, training and potential.

All staff should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees and workers have a right to be treated with fairness and equity.

12. Separation of Roles During Tendering

Staff involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior staff who have both a client and contractor responsibility must be aware of the need to demonstrate accountability and openness.

Staff in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers other contractors and sub contractors.

Staff who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised third party or organisation.

Staff should ensure that no special favour is shown to current or recent employees and workers or their partners, close relatives or associates in awarding contracts to businesses.

13. Use of Financial Resources

Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

In addition, staff must consider financial matters solely with regard to the public interest and in accordance with the council's financial regulations.

14. Corruption

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

15. Gifts, Hospitality and Sponsorship

In the course of their work for or on behalf of the Council staff may be offered gifts, hospitality or sponsorship by contractors, consultants, clients or other members of the public. In some instances, accepting such gifts could place staff in a serious predicament, open to allegations of bribery and corruption, disciplinary proceedings and or criminal investigation.

These guidelines are designed to protect workers from such allegations, proceedings or investigations. It is essential that workers are open, and not secretive in their relationships with outside agencies and at all times act in a manner that will protect the integrity and reputation of the Council. Under no circumstances should gifts, hospitality or sponsorship be accepted to give personal, commercial, regulatory or contractual advantage (acceptance of bribes). All workers are required to have an understanding and awareness of the Counter Fraud Framework – Bribery Policy Statement and Procedure.

Accepting bribes is a matter to be investigated by the Corporate Anti Fraud Team (CAFT) and could result in prosecution.

Any gift, hospitality or sponsorship that is offered in connection with work undertaken for the council (whether accepted or not) must be recorded in writing, immediately on receipt, or offer, on the Hospitality, Gifts and Sponsorship Declaration Form. For the avoidance of doubt, it is required to fully complete the declaration form on each and every occasion that an offer of a gift, hospitality or sponsorship is made, unless there is an exemption for gifts, etc. below a specified value threshold.

After completion, the declaration form must then be passed immediately to the line manager. Once the line manager has completed their section they should then immediately pass the declaration form to the council's Monitoring Officer. The Monitoring Officer will consider if further action is appropriate. The Monitoring Officer will then pass the declaration form to a Governance

Officer for inclusion in the central register recording receipt/offers of gifts, hospitality and sponsorship to Council officers. In the interests of transparency the council may publish the “gifts hospitality and sponsorship” register, but will delete personal data, where it is appropriate to do so.

Minor gifts/hospitality under £25, e.g. calendars, diaries, stationery items, need not be recorded. The same applies to the receipt of minor hospitality e.g. tea and biscuits. Where unsolicited gifts, with a value of less than £25, such as a bottle of wine, food, confectionery, etc are offered, these can be accepted, and if not capable of sharing with colleagues, residents/users (e.g. of a social services’ establishment), they may be kept for personal use or donated to the Mayor’s charity. Staff should declare multiple gifts received (in a period of 12 months) from the same donator/company whether or not they exceed £25.

Gifts of higher value, e.g. cases of spirits, clothes, jewellery, holiday bookings, holiday discounts and electrical equipment, must not be accepted and, if received, should be returned to the sender, but must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such gifts must be separately reported by you)

Cash, Cheques, Money Orders or any monetary form offered to or received as a gift or otherwise must not be accepted, under any circumstance, and any such offers must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such offer or receipt must be separately reported by you)

Discounts It is not permitted, on a personal basis, take advantage of discounts which have been offered or negotiated by the Council with its suppliers for the purchase of goods, materials or services, unless the discount has been negotiated specifically as a benefit available to all staff or to a specific group of staff (of which the individual claiming the discount is a member).

Hospitality. The Council recognises that from time to time there is a need for certain officers to attend business functions where they may receive hospitality in the form of light refreshments, drinks and/or meals. Such hospitality may be accepted when provided in the course of normal business - e.g. lunch at a contractor’s expense during a business meeting or function, provided that it is recorded in the gifts, hospitality and sponsorship register (subject to the exemption for minor hospitality previously referred to). If the offer of alcohol is accepted, vehicles must not be driven until an appropriate time has elapsed for the alcohol to have left the system. Individuals should consider whether the acceptance of hospitality could affect or may reasonably be perceived as likely to affect the outcome of a business

transaction involving the Council or may otherwise be reasonably perceived as not appropriate and/or not bona fide expenditure.

Prestige Events. Invitations to prestige events, such as Wimbledon and Royal Ascot and other events such as football matches, theatre, opera, or weekend breaks must not be accepted, and offers must be recorded on the declaration form. Consideration may be given to attendance at certain events if that attendance is in connection with the business purposes or otherwise in the interests of the Council, but authorisation must be obtained from your line manager and approved by the Monitoring Officer before any attendance and this must be recorded on the declaration form.

Sponsorship. Attendance at sponsored conferences and other business related events would be permissible provided that such attendance is either necessary for the business purposes or otherwise in the interests of the Council or it is normal practice for officers in local authorities or other public bodies to attend. Attendance must be recorded on the declaration form.

Council workers providing personal care, such as Care Workers, Home Helps and Wardens of sheltered housing accommodation can sometimes be offered jewellery, money or other gifts, or bequests of substantial value by clients. There are special considerations when dealing with elderly, confused or otherwise vulnerable clients, as accepting such gifts may place staff in a vulnerable position. Any such offers from clients, or their relatives, friends or other members of the public, must be reported immediately to the line manager. Where-ever possible gifts from clients should be refused, and they may only be accepted if to refuse would give offence, they are under the value of £25, a declaration form has been completed (even though below the normal value threshold) and with the prior consent of the employee's line manager and the Monitoring Officer.

There are certain groups of employee (e.g. Refuse Officers, Enforcement Officers, Purchasing/Procurement Officers, Planners, Major Programme/Project leads) for whom it would be inappropriate to receive any gifts or hospitality in view of the nature of their work. Holders of these roles will be notified by their Assistant Director (or other appropriate senior officer) of any additional rules which apply.

No gifts or hospitality are to be accepted from contractors who are considering or submitting a tender during a tendering period.

Records may be subject to inspection.

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

16. Sponsorship – Giving and Receiving

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

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

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

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

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

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

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

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

It is not permitted for council workers to provide information to third party authors of blogs or online content about the council. In cases where it is discovered that confidential information has entered the public domain, the council will investigate and may use forensic electronic methods to discover the source.

18. Application of the Code of Conduct

There will be specific mention of the Code of Conduct in the contract of employment for new starters and that they could be required to declare interests after the selection process but before taking up their posts.

Any apparent breaches of this Code of Conduct will be fully investigated by the appropriate manager and any proceedings would follow the normal disciplinary procedures of the Council and in serious cases could also result in prosecution.

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

It is council policy that when visiting a child, an adult must be present. When making appointments, always make it clear that an adult must be present when the visit takes place.

Where a visit takes place and it is still found that a child below the age of 16 is alone and showing obvious signs of distress, call the police immediately using 999 and report the circumstances. Stay with the child while waiting for the police and then hand over responsibility. Ensure you inform your manager and record your actions.

Staff have a duty to report any concerns they may have in relation to the safety and protection of unsupervised children they may come across in the course of their work.

20. Criminal Offences

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

21. Fraud

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

22. Restraint of Trade – HAY Graded Staff

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

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

NB this will be an online process

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

(If the declaration is made **by e-mail**, state by e-mail in the signature box above)

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

Managers Statement:	I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff for whom I have line management responsibility. I consider the action taken by the member of staff to be reasonable and it has my approval/ I have taken the following action with regard to the matter:
----------------------------	---

Print Name:

Signed and Dated:

Monitoring Officer statement:	I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff. I have taken account of the line manager's comments. I consider the action taken by the member of staff to be reasonable and it has my approval / I have taken the following action with regard to the matter:
--------------------------------------	--

Print Name:

Signed and dated:

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

Print Name	
Signed and dated.	

Appendix Z

PROTOCOLS FOR MEMBER-OFFICER RELATIONS

1. WHY PROTOCOLS

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government. The government has stated that without such high standards, local government's powers will not be extended.
- 1.2 Each Group Leader and the Chief Executive has endorsed this code as setting the standard for the conduct of officers and members in Barnet.

Andrew Travers
Interim Chief Executive

Alison Moore
Leader of the
Labour Group

Jack Cohen
Leader of the
Liberal Democrat Group

Richard Cornelius
Leader of the
Conservative Group

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

Selflessness

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

Honesty and Integrity

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

Objectivity

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

Accountability

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

Openness

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

Personal Judgement

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

Respect for Others

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

Duty to Uphold the Law

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

Stewardship

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

Leadership

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

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

2 THE ROLE OF MEMBERS

- 2.1 Members are elected democratically. It is their policies, ideas and decisions which people vote for. Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those

policies that have been determined by democratic means. Members are the channel for the voices of the people in their wards.

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

All other functions are the responsibility of the Executive, that is the Leader of the Council and a Cabinet of nine councillors. These functions can be discharged by a meeting of the whole Executive, a committee of the Executive, an individual member of the Executive, a non-Committee, an officer or by a joint arrangement with some other body.

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

- 2.4 Members may have different roles:-

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

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

3. **SUPPORT SERVICES FOR MEMBERS**

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

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

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

- 3.3 The Chief Executive will from time to time arrange training programmes for Members. These might involve induction for new members, presentations and discussions on particular topics, and training in specialist areas of the Council's work, for example planning. Sometimes training may be a requirement before a Member can take part in a specialist committee. Training may be for all members of the Council or targeted at members of particular committees.
- 3.4 The Council runs a mayoral car with a chauffeur and a second car for use on official business when the mayoral car is unavailable or inappropriate. These vehicles can only be used by members or officers for official Council purposes.

4. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS, LAND AND PREMISES

- 4.1 Barnet has adopted a policy of Open Local Government. This means information will be provided to the members of the public and Members of the Council unless it falls within a list of items which are exempt or confidential or for other proper reasons. Also, Councillors have rights to access committee papers and other information. This is set out in the relevant parts of the Council Constitution. If you can establish that in order to carry out your duties as Councillor you need information to which you are not automatically entitled to have access then the Chief Executive may provide access.
- 4.2 Members are free to approach any Council Service to provide them with information, explanation and advice (about the Service's functions) as they may reasonably need in order to respond to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director/Assistant Director, Lead Commissioner or Head of Service or another senior Officer of the Service concerned.
- 4.3 Members are not entitled to confidential information which is not directly relevant to their role as a Councillor. Members should not request confidential information in order to use it for a purpose not legitimate for their role as a Councillor, because they are in a position of trust. A Member's motive for requesting confidential information is relevant and Members should be prepared to disclose the reason for their request. Members must not abuse this trust by disclosing information that is confidential or exempt from disclosure to the public.
- 4.4 Confidential information should not be disclosed to any third party unless:-
- the Member is legally compelled to do so, for example there is a legal duty to make disclosure in the public interest
 - the disclosure is at the request, or with the consent, of the party that provided the information.
- 4.5 Members who believe that the disclosure of confidential information is necessary for the effective performance of their duties as Members should seek

advice from the Chief Executive or the Monitoring Officer. Improper disclosure of confidential information can put the Council at legal and financial risk.

4.6 Members should not ask for information on a matter on which they would have to declare an interest.

4.7 If you are refused access to documents you feel you have the right to see, the dispute will be determined by the Chief Executive.

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

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

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

5. **THE ROLE OF OFFICERS**

5.1 Officers can also have a variety of roles.

- They must advise Members to help them to take decisions.
- Some Officers have personal statutory powers and duties, for example, the officers designated as Head of Paid Service (Chief Executive), the Chief Finance Officer, the Monitoring Officer, Adults and Communities Director and Director of Children's Service. Others, such as the Registrars of Births, Deaths and Marriages or Health and Safety at Work Inspectors, work under special statutory regimes.
- The Council has given delegated powers to Directors and Chief Officers so that they can act and take decisions on behalf of the Council in many areas, provided they follow the rules of delegation and Members have access to their decisions.
- The Council is a very large organisation, and officers have a role to play within the organisation itself.

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

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

5.4 In addition, Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of officers to manage the implementation of policy. This does not

necessarily imply no Member involvement in implementation issues, but rather a set of understandings which both parties can agree to.

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

5.6 Officers should always know that they must:-

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

6. **THE COUNCIL AS EMPLOYER**

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

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

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

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

- any individual applicant to become an employee, or
- any individual who is an employee (this includes details of grade and pay, and any disciplinary, grievance or other employment issue that involves a particular employee), or

- consultation or negotiations over any labour relations matter
- 6.4 When acting as employer, members are bound by the complete framework of national and European employment law and may be personally liable for decisions which discriminate on the basis of race, gender or disability. The Council is an equal opportunity employer and members should be guided by this principle in all their relationships with staff.
- 6.5 In addition under Standing Orders,
- Members must not solicit a job with the Council for any person (but may give them a written testimonial)
 - Canvassing support for a candidate for a job with the Council disqualifies the candidate from that job.
- 6.6 Political activities and affiliations may only be taken into account in recruitment in relation to the specific posts of political assistant. These are subject to special legal rules.
- 6.7 Members will be involved in individual staffing matters if they are a member of a Committee or Panel set up for that purpose. Standing Orders provide for Panels of Members for Chief Officer Appointments, and for disciplinary and grievance processes relating to the Chief Executive, Directors and Chief Officers.
- 6.8 In other circumstances, however, Members must not become embroiled in the management of the Council (for example, all other disciplinary, capability or grievance processes are officer-only affairs). They must not engage in activities which might undermine the management line of command or adherence to Council personnel procedures, or try to influence the recruitment process.
- 6.9 Likewise, Officers must not raise directly with Members any personal matter to do with their jobs, or relating to any potential appointment.

7. **MONITORING THE PERFORMANCE OF OFFICERS**

- 7.1 Members should set the parameters for Council work and then let Officers get on with running things as much as possible, whilst guaranteeing that strong scrutiny and performance management systems are in place.
- 7.2 Members have a right to criticise reports or the actions taken by Officers, but they should always:-
- avoid personal attacks on Officers
 - ensure that criticism is constructive and well founded.
- 7.3 Complaints about officers or Council services should be made to the Director/Assistant Director/Lead Commissioner or Head of Service where a Member feels the fault lies or to the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort.

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

8. **MEETINGS**

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

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

9. **OFFICER ADVICE/POLITICAL NEUTRALITY OF OFFICERS**

9.1 There is statutory recognition for party groups and sometimes consultation is required with Cabinet members and committee chairmen. It is common practice for meetings to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision-making body or officers under delegated powers. This is separate from formal meetings of Cabinet or Cabinet Committees, or which are covered by the Access to Information Rules.

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

- Officers, apart from political assistants, should not attend party group meetings, or party political meetings involving party colleagues who are not members of the Council, without the agreement of the Chief Executive. Conversely, the Chief Executive may arrange meetings with, or presentations to, party groups on particular topics.
- Officers may make presentations to party groups of members of the Council on request. All requests for advice of this kind should be routed through the Chief Executive who would be responsible for advising the other groups who could then ask for the same briefing.
- Officers may attend briefing meetings with the Leader of the Council, Cabinet Members or spokespersons, Chairs and Vice-Chairs, either on a specific topic or prior to a formal meeting or the like.
- Officers may meet Cabinet Members and Chairs prior to consulting them formally as a precondition to exercising delegated powers.
- Officers may attend for briefing with the Leader and Lead Members of all political parties on the Council in their offices.
- The Leader of the Council and the Cabinet may arrange regular meetings and invite Directors and other senior officers to attend, in accordance with the following principles.

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

- (a) Officer support in these circumstances should not extend beyond providing information and advice in relation to matters of Council business, and Officers should not be expected to be involved in advising on matters of party business.
 - (b) Such meetings, whilst they may form part of the preliminaries to decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions, and should not be interpreted as such.
 - (c) Similarly, where Officers provide information and advice to such meetings in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant body when the matter in question is considered.
- 9.4 Special care needs to be exercised if Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the code.
- 9.5 Officers must respect the confidentiality of any discussions at which they are present with Members. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.
- 9.6 Any particular case of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).
- 9.7 Officers must never allow their own personal or political opinions to interfere with their work. Officers should not take part and Members should not ask officers to take part in any activity which could be seen as influencing support for a party. Members should raise with the Chief Executive any concerns about the political neutrality of an officer.
- 9.8 Senior officers and political assistants are subject to legal rules limiting their political activities outside work.
- 9.9 The protocols governing the duties of political assistants are summarised below:-
- They are Council employees and subject to Council contracts of employment, *the Council Constitution* and staff instructions.
 - They cannot stand in for Members at events or decision-making bodies, although they can attend as non-speaking observers, but not as representatives.

- Each group has appointed a group officer to direct day to day work.
- They cannot be required to breach the Council Constitution, the terms of their contract of employment or the legal restrictions on them.
- They must respect confidentiality regarding the party, group and individual members.
- The Chief Executive deals with appointment, induction, discipline and grievances. He or she conducts appraisal with the group officer.
- He or she will not require the assistant to divulge confidential information regarding the group, its dealings or its members.
- The assistant's normal contact points are members of Service management teams, policy officers and committee administrators. In making contact the assistant must be careful not to misrepresent the intentions of the group, and must clarify whether they are representing the whole group or individual members.
- The existence of assistants should not detract from normal member/officer relationships.
- They cannot access files that a Councillor cannot access, unless the Councillor has demonstrated the need to know.
- In external relationships, they must make it clear that they are acting on group instructions, not for the whole Council. They must not speak to a public audience on terms which might create the impression that they are speaking as a representative of their political party.

10. **PERSONAL RELATIONSHIPS**

- 10.1 Good working relationships between officers and Members are at the heart of good local government.
- 10.2 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

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

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

"I do not think it is part of the proper relationship between Officers and Councillors if Officers are somehow seen in public as people who can be appropriately harangued or criticised or told that they do not know what they are

doing. I think that the best relationship between Officers and councillors is much more a partnership relationship"

- Gerry Stoker, Professor of Government, University of Strathclyde.

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

11. **EXCESSIVE FAMILIARITY**

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

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

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

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

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

12. **COMBATIVENESS AND PRESSURE**

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

12.2 Members must remember that Officers cannot respond to personal criticism in the same way that politicians can and should make their comments accordingly. Members need to be especially careful about contact with less senior staff and must avoid deliberately or unwittingly intimidating staff. Members and Officers should be aware that problems often arise in informal situations, where Members and Officers are sometimes prone to lose their inhibitions. This should not prevent reasonable constructive criticism of the work of officers by members.

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

- are not objective and cannot be accounted for
 - favour unfairly one member of the public over another.
- 12.4 Nor should they bring undue influence to bear on an Officer to take any action which is against procedure or policy, such as
- a breach of personnel procedures
 - a conflict with the Council Constitution
 - conflict with planning procedures and policies.
- 12.5 Members must declare any special relationships with constituents when dealing with Council Officers. Although Members are elected to represent the interest of their constituents, they should not seek special treatment for any individual.
13. **RELATIONS BETWEEN OFFICERS AND CABINET MEMBERS AND OTHER CHAIRMEN**
- 13.1 It is especially important that there should be a close working relationship between the Cabinet Members and Chairs and Vice Chairs of committees and other bodies, Directors, Assistant Directors, Lead Commissioners, Heads of Service and other Senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.
- 13.2 Whilst the chairmen will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting it must be recognised that the Director, Assistant Director, Lead Commissioner or Head of Service will always be fully responsible for the contents of any report submitted in his/her name and the Chief Executive for preparing the agenda. Members must not seek to influence an officer to limit or modify recommendations put forward or withhold information which s/he should properly report.
- 13.3 Officers within a service are accountable to their Director, Assistant Director, Lead Commissioner or Head of Service. Whilst Officers should always seek to assist Members they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director, Assistant Director, Lead Commissioner or Head of Service, and should not be expected to do so.
14. **REPORTING IMPROPER CONDUCT: ALLEGED MISCONDUCT BY MEMBERS**
- 14.1 Complaints would initially be investigated by the Monitoring Officer or a representative designated by him/her who would provide a written report to a Group Leaders Panel (the panel) within 28 days of receiving the complaint. The report would comprise purely factual findings without any conclusion drawn as to whether or not a breach of the code is believed to have taken place. Complaints about the conduct or behaviour of a Members or co-opted member must specifically be that they have breached the Members' Code of Conduct.

- 14.2 The Group Leaders Panel comprises the Leaders of all the political Groups represented on the Council taking account of the views of an 'Independent Person'.
- 14.3 The complainant and the subject Member would be able to make written representations to and answer questions in writing from the Monitoring Officer but there would not be 'in person' interviews at this stage. The Monitoring Officer would have the discretion to assemble other evidence to assist the panel as appropriate.
- 14.4 The Monitoring Officer would send the written report to the panel who would decide whether the matter justified proceeding to a formal consideration. If the panel decide that the complaint should proceed to a formal hearing, a meeting of the Group Leaders Panel will be convened to hear the case, taking account the views of an Independent Person. An Independent Person has a statutory role of giving views on any complaint about the conduct of a Member and is recruited through public advertisement.

15. **WHISTLEBLOWING**

- 15.1 The Council has adopted a whistle blowing policy and procedure for Officers. This sets out the process under which officers can raise concerns with the whistleblowing officer, or, with the Monitoring Officer. It sets out how this works, and the responsibilities of the people concerned.
- 15.2 The Council neither tolerates improper conduct by its employees or Members, nor the taking of reprisals against those who come forward to disclose such conduct. We are committed to the highest possible standards of openness, probity and the aims and objectives of the Public Interest Disclosure Act 1998. As such all members have a duty to comply with the Council's Whistleblowing policy and;
- promptly raise with the councils Whistleblowing Officer, Monitoring Officer or Chief Executive any irregularities and matters which they feel have been dealt with improperly
 - provide them with all the evidence or relevant information they have.
- 15.2 In particular, members have a duty to raise any issues they have reason to think might involve fraud, corruption, bribery or money laundering activity.
- 15.3 In accordance with our Whistleblowing policy any person who makes a report in good faith will be protected from victimisation or reprisal.
- 15.4 No action will be taken against any person if a report has been made in good faith but is not confirmed by the investigation.
- 15.5 Conversely, any person should not make a report, which they do not reasonably believe to be true, or which are malicious. If this is proven to Chief Executive will take appropriate action if frivolous or malicious allegations are made.
- 15.6 The provisions of this code are in addition to the right of any member or employee to raise an issue of concern with an appropriate body outside the Council.

Decision of Divisional Court with respect to Officers

This case (Porter and others v Magill) concerns the legality of Westminster City Council's housing policies and whether or not former members and officers of the Council should be surcharged for any losses caused by adopting the policies on the grounds of their wilful misconduct. The District Auditor certified that three members and two officers should be surcharged. The Divisional Court allowed appeals by the officers and one of the members. The Court of Appeal allowed further appeals by the other two members. The District Auditor has appealed to the House of Lords.

Officers faced liability although the District Auditor never identified any personal gain or motive for wilful misconduct. The District Auditor placed reliance on officers having attended Conservative Group meetings and discussed the formation of the policies with majority group members.

The Divisional Court stated the following principles in relation to Officers undertaking their duties. The Court of Appeal did not reverse this aspect of the judgement of the Divisional Court. Further advice will be given if the House of Lords speeches cover these points.

- Officers **must** at all times retain their impartiality. They must not imperil their independence by:
 - (a) Political partiality
 - (b) Suppressing their professional views in the face of political pressure
 - (c) Leading support to policies of a party-political or sectional-serving character which are not in the interest of the authority's council-tax payers as a whole.
- Officers may attend political meetings of a Group or Council Members if invited to do so. There is nothing wrong in merely attending the meeting as the presence of Officers does not in itself convey assent to party political views. It provides Officers with the opportunity to hear the formation and development of ideas which may develop into Council policy.
- It is appropriate for Officers to provide Members with information about their local authority and its inhabitants which is available to Officers and can be supplied at modest cost.
- When dealing with Members, Officers may hear a substantial amount of talk which is party-political in nature. Officers are not required to give advice or take action until such time as it is clear that such talk is to become policy.

APPENDIX AA

LONDON BOROUGH OF BARNET CODE OF CORPORATE GOVERNANCE

1. INTRODUCTION

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

2. ELEMENTS OF CORPORATE GOVERNANCE

- 2.1 The Code is embodied in various policies, procedures and other documents. The Code provides a summary of how, through these policies, procedures and documents, the Council complies with the core and supporting principles within the “Delivering Good Governance in Local Government” framework.
- 2.2 The Council produces an Annual Governance Statement to report publicly on the extent to which the Council complies with its local code, including how the effectiveness of these arrangements during the year have been monitored, and on any planned changes in the coming period. (This is a statutory requirement under the Accounts and Audit (Amendment) Regulations 2006.
- 2.3 The following table identifies the means through which the council will achieve these core principles as well as the supporting principles and the requirements associated with them.

<p><i>Principle 1 – Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.</i></p>
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The Council will focus on the purpose of the authority and on outcomes for the community and create and implement a vision for the local area.

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

		contributes to service delivery with all complaints, comments and compliments logged on one system and categorised in line with Local Government guidance.
1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money	Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions	<p>The Corporate Plan includes a clear definition of how value-for-money will be measured, with key performance indicators in place.</p> <p>Responsibility for addressing value-for-money delivery is clearly allocated to Officers with the necessary skills and clear guidance is available.</p> <p>The Council's External Audit arrangements review value for money and performance and report annually to those charged with governance.</p> <p>The Council's Internal Audit arrangements are compliant with the Internal Audit Code of Practice based on CIPFA guidance. The Internal Audit Charter is in place which emphasises reviewing arrangements within the council to make the best use of resources.</p>

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

Supporting Principles	Requirements	How the Council meets the Requirements
2.1 Ensure effective leadership throughout the authority and be clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function	<p>Set out a clear statement of the respective roles and responsibilities of the Executive and of Executive Members individually and the authority's approach towards putting this into practice</p> <p>Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers</p>	<p>The Constitution defines the roles and responsibilities of the Leader, Deputy Leader, Cabinet and individual Executive members;</p> <p>The Constitution defines the roles and responsibilities of all Council Committees.</p>
2.2 Ensure that a constructive working relationship	Determine a scheme of delegation and reserve powers within the constitution, including a	The Constitution clearly sets out the Protocol between Members and Officers. Code of Conduct exists

<p>exists between authority members and officers and that the responsibilities of authority members and officers are carried out to a high standard</p>	<p>formal schedule of those matters specifically reserved for the collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required</p> <p>Make a Chief Executive responsible and accountable to the authority for all aspects of operational management</p> <p>Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained</p> <p>Make a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control</p> <p>Make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with</p>	<p>separately for Members and for Officers. Job descriptions are in place clearly defining the roles and responsibilities of senior officers. The Council has an annual and half yearly performance review system.</p> <p>Article 12 of the Constitution sets out the functions of the Council's Chief and Statutory Officers and protocols are disseminated in the organisation.</p> <p>Proper Officer arrangements are established for all financial matters for the council.</p> <p>A scheme of delegation exists in the Constitution and separately in certain Service Areas (based on the Constitution) to ensure the appropriate exercise of powers in the Council;</p> <p>Member/Officer protocols in the Constitution ensure effective communication between Members and Officers, including the Leader and the Chief Executive.</p>
<p>2.3 Ensure relationships between the authority, Members and the public are clear so that each knows what to expect of the other</p>	<p>Develop protocols to ensure effective communication between members and officers in their respective roles</p> <p>Set out the terms and conditions for the remuneration of members and officers and an effective structure for managing the process, including an effective remuneration committee</p> <p>Ensure that effective mechanisms exist to monitor service delivery</p> <p>Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and</p>	<p>Appropriate employment policies are followed including the National Joint Council for Local Government Services as well as Local Agreements;</p> <p>The performance review process, various meeting forums, one to one sessions focussing on delivery issues and progress and Programme and Project Boards addressing the delivery of projects are all effective mechanisms to monitor service delivery;</p> <p>The vision and priorities within the Corporate Plan and Sustainable Community Strategy are developed in consultation with the community and are communicated (disseminated) to</p>

	<p>in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated</p> <p>When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority</p> <p>When working in partnership:</p> <ul style="list-style-type: none"> - ensure that there is clarity about the legal status of the partnership - ensure that representatives of organisations both understand and make clear to all other parties the extent of their authority to bind their organisation to partner decisions 	<p>ensure that both the public and Council officers are aware of Council obligations under the vision;</p> <p>Partnership guidance refers to the importance of defining roles and responsibilities for partner members and outlining the need for clarifying the legal status of the partnership.</p> <p>A Remuneration Committee was established in March 2012 to implement the provisions of the Localism Act 2011 and in line with good governance principles.</p>
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Principle 3 – Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.

Supporting Principles	Requirements	How the Council meets the Requirements
<p>3.1 Ensure Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance</p>	<p>Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect</p> <p>Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols</p> <p>Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate</p>	<p>The Constitution contains codes of conduct and protocols for Members and Officers, there is a performance review process, a corporate complaints process and an anti-fraud and corruption policy;</p> <p>There is a counter fraud framework meeting statutory requirements and according with best practice guidelines. This framework includes the whistle-blowing Policy, Fraud Policy, Prosecution Policy, RIPA Policy as well as an annual report to the Audit Committee and an annual work plan;</p> <p>The Code of Conduct for Members provides effective arrangements for ensuring that Members are not influenced by prejudice, bias or conflicts of interests, which are implemented through training and the</p>

	<p>processes to ensure that they continue to operate in practice</p>	<p>existence of processes to obtain details of personal interests:</p> <ul style="list-style-type: none"> - the Monitoring officer compiles the Register of Interests and conducts an annual review; - all Council and Committee meetings have declaration of pecuniary and prejudicial interests as a standard agenda item; - registered and declared interests are publicly available; - the arrangements for registration and declaration of interests includes gifts and hospitality; <p>The Code of Conduct for Officers sets out arrangements for ensuring that Officers are not influenced by prejudice, bias or conflicts of interest and includes the registration of interests;</p> <p>Officer Expenses Procedures encompass statutory requirements and best practice with records kept as part of standard accounting procedures;</p>
<p>3.2 Ensure that organisational values are put into practice and are effective</p>	<p>Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners</p> <p>Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</p> <p>Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority</p> <p>In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such</p>	<p>The Council has a published set of values: Being Trustworthy, Valuing Diversity, Being Human, and Being Collaborative.</p> <p>Codes of Conduct for Members and Officers are publicly available facilitate the development and maintenance of shared values reflecting public expectations.</p> <p>The Constitution, Ethics and Probitry Committee operates in line with clear terms of reference contained in the Constitution. This includes “to consider and make recommendations to the Council on (i) how it can satisfy the continuing duty to promote and maintain high standards of conduct for Members; (ii) on the Code of Conduct for Members and (iii) on ethical standards in general across the authority”.</p> <p>Decision making practices are publicly available and include decision-making principles supporting high standards</p>

	values must be demonstrated by partners' behaviour both individually and collectively	of conduct; Processes for reporting complaints relating to Member conduct are clearly set out on Barnet Online.
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Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.

Supporting Principles	Requirements	How the Council meets the Requirements
4.1 Be rigorous and transparent about how decisions are taken and listen and act on the outcome of constructive scrutiny	<p>Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.</p> <p>Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based</p> <p>Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice</p> <p>Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee</p> <p>Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints</p>	<p>A reviewed scrutiny function ensures constructive challenge through the various Overview and Scrutiny Committees (with committee roles defined in the Constitution) including the call-in process.</p> <p>Report-writing guidance and templates are used by all Officers writing reports.</p> <p>The Scrutiny Committee produces an annual report on their work, including any details on call-ins and recommendations made.</p> <p>The corporate performance-monitoring processes related to the Corporate Plan are in place that scrutinise performance and address weaknesses in delivery.</p> <p>An Audit Committee, independent of Executive and Scrutiny functions, with clear terms of reference, cross-party membership and Independent Members review the Code of Corporate Governance.</p> <p>Members of the Audit Committee receive the necessary training in this role and can exercise their power to challenge officers responsible for areas under audit review where assurance levels have not improved, or present high risk to the organisation.</p> <p>A complaints process contributes to informed decision-making;</p> <p>The Corporate Complaints Policy ensures consistent and effective</p>

		complaints handling across the Council.
<p>4.2 Have good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs</p>	<p>Ensure that those making decisions whether for the authority or the partnership are provided with information that is fit for the purpose - relevant, timely and gives clear explanations of technical issues and their implications.</p> <p>Ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.</p>	<p>Decision making protocols are publicly available and set out the criteria on which decisions are based.</p> <p>The Advance Notice of Proposed Items for Decision and Parts of Meetings which will not be held in public session and minutes of meetings are publicly available and provide records of decisions planned and taken.</p> <p>Clearance processes ensure that decisions are based on correct (fit for purpose) information and that information is available for timely review, including the availability and recording of legal and financial advice.</p>
<p>4.3 Ensure that an effective risk management system is in place.</p>	<p>Ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs.</p> <p>Ensure that effective arrangements for whistle-blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access.</p>	<p>A Risk Management Strategy and Policy Statement is reviewed annually and reported to the Audit Committee. An electronic risk management system is used to ensure that risk management processes are embedded within the culture of the authority. Regular reporting and challenge sessions exist within the council to ensure decision makers are informed on the risks and opportunities for each decision.</p> <p>There is a Business Continuity Framework and toolkit with Business Continuity Plans regularly reviewed to enable efficient continuation of service through incidents;</p> <p>There is a generic major incident plan to fulfil the responsibilities to have appropriate arrangements in place in case of significant national or local incidents.</p> <p>A whistle-blowing policy is available to officers.</p>
<p>4.4 Their legal powers to the full benefit of the citizens and communities in their area</p>	<p>Actively recognise the limits of lawful activity placed on the authority by, for example, the ultra vires doctrine but also strive to utilise its powers to the full benefit of the community.</p> <p>Recognise the limits of lawful</p>	<p>Officers and Members operate lawfully through the existence of mechanisms including:</p> <ul style="list-style-type: none"> • decision-making through the review process of all decisions prior to publications; • Management oversight of the

	<p>action and observe both the specific requirements of legislation and the general responsibilities placed on the authority by public law.</p> <p>Observe all specific legislative requirements placed upon the authority, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law - rationality, legality and natural justice - into its procedures and decision making processes.</p>	<p>decision making process within a legal context;</p> <ul style="list-style-type: none"> the Internal Audit function and Corporate Anti-fraud function are in place to provide independent assurance on risk areas.
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Principle 5 – Developing the capacity and capability of members and officers to be effective.

Supporting Principles	Requirements	How the Council meets the Requirements
<p>5.1 Make sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles</p>	<p>Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis</p> <p>Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority</p>	<p>Member Training, including induction training and specific training in relation to certain committees is provided and this includes non-councillor members of committees.</p> <p>Officers advise Members as required in addition to specific guidance being provided at induction and on Members' correspondence for example.</p> <p>The informal Member Development Panel (one member for each party), supported by Governance Service assesses skills required by Members and identifies, advises on and promotes Member training and development.</p> <p>The Organisational Development Plan incorporates a training policy for Officers, including induction training, is available.</p>
<p>5.2 Develop the capability of people with governance responsibilities and evaluate their performance, as individuals and as a group</p>	<p>Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively</p> <p>Develop skills on a continuing basis to improve performance,</p>	<p>The performance review process (with appraisals recorded and monitored) is the main basis for identifying and addressing training needs, including addressing the skill and support requirements of the statutory officers. Group Leaders administer this for</p>

	<p>including the ability to scrutinise and challenge and to recognise when outside expert advice is needed</p> <p>Ensure that effective arrangements are put in place for reviewing the performance of the Executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs</p>	<p>their party.</p> <p>Training in relation to an Officer's area of responsibility is given and for financial and other cross-cutting systems with training needs assessed at appraisals.</p> <p>The Overview and Scrutiny Procedure Rules and Operational practices ensure the performance of the Executive is effectively reviewed.</p> <p>Role profiles for Members were agreed by General Functions Committee in 2011.</p>
<p>5.3 Encourage new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal.</p>	<p>Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.</p> <p>Ensure that career structures are in place for members and officers to encourage participation and development.</p>	<p>Representatives from the community engage with the work of the Council through various structures such as the Citizen's Panel, the Residents Forums and consultation surveys conducted corporately and at service level.</p> <p>The Remuneration Policy includes career progression guidelines.</p> <p>The Talent Management Strategy encourages Officer participation and development.</p>

Principle 6 - Engaging with local people and other stakeholders to ensure robust public accountability.

Supporting Principles	Requirements	How the Council meets the Requirements
<p>6.1 Exercise leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships</p>	<p>Make clear to itself, all staff and the community to whom it is accountable and for what</p> <p>Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes required</p> <p>Produce an annual report on the activity of the scrutiny function</p>	<p>The Sustainable Community Strategy and the Corporate Plan have been disseminated resulting in a clear understanding by staff and the community as to what the Council is accountable for and to whom.</p> <p>The Barnet Partnership Terms of Reference are based on best practice and guidance and arrangements apply as far as possible to all its sub-partnerships.</p> <p>Various performance management structures scrutinise the effectiveness of relationships with partners, monitor</p>

		<p>delivery, identify and address concerns and report outcomes publicly.</p> <p>An Overview and Scrutiny annual report to the Council and available to the public, sets out planned activity and outcomes of scrutiny functions.</p>
<p>6.2 Take an active and planned approach to engage in dialogue with the public to ensure there is an effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning</p>	<p>Ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively</p> <p>Hold meetings in public unless there are good reasons for confidentiality</p> <p>Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands</p> <p>Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result</p> <p>On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period</p> <p>Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness</p>	<p>Residents Forums, corporate and local consultation exercises, Overview and Scrutiny Committees and initiatives to engage specific groups are examples of a variety of consultation and engagement mechanisms to engage with all sections of the Community.</p> <p>Consultations are conducted with residents, Members and staff utilising best practice principles including the Market Research Code of Practice;</p> <p>The Residents Perception Survey on the place and council services is conducted with a representative sample of residents of the borough;</p> <p>There is a Citizen's Panel which consists of 1250 residents representative of the borough often used for service specific consultations.</p> <p>There is a Petition Scheme for persons who live, work or study in the authority's area to submit a Petition with their concerns about a Council service or decision.</p> <p>Corporate publications (including Barnet First), the 'Barnet Online' Website, electronic news letters, controlled media pitches, the Council's social media presence through Facebook and Twitter and campaigns to target specific areas are clear channels of communication with the public (both at corporate and at service level).</p> <p>Council and committee meetings are held entirely in public and their reports and minutes are public unless confidentiality is specifically required in accordance with the Access to</p>

	<p>and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so</p>	<p>Information Procedure Rules in the Constitution.</p> <p>Partnership arrangements for consultation are in line with and refer to consultation guidance.</p> <p>There is an annual report of outcomes and achievements in relation to the Council's vision to Council and therefore public. <i>Council also publishes the Annual Governance Statement as part of the Annual Statement of Accounts.</i></p> <p>The Council is open and accessible to the public through:</p> <ul style="list-style-type: none"> - the above processes for communicating vision and outcomes to the public; - the complaints process available to the public, and - the publicly available Constitution, which sets out a commitment to openness and transparency and defines processes for public participation at Committee meetings. <p>The Freedom of Information Policy and Publication Scheme ensure openness and accessibility as well as compliance with the requirements of the Freedom of Information Act.</p> <p>The Data Protection Policy, Records Retention and Disposal Scheme and Fair Processing Notice ensure that confidentiality is preserved properly and appropriately.</p>
<p>6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff</p>	<p>Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making</p>	<p>There are clear policies for consultation with staff and their representatives, including trade unions.</p>

3. MONITORING AND REPORTING

- 3.1 The Code of Corporate Governance will be reviewed biennially to ensure continuing compliance.
- 3.2 Compliance is regularly tested but not limited to the Internal Audit Plan and Annual Audit Report of the Chief Internal Auditor.

3.3 The Council will produce an Annual Governance Statement, which is the formal statement that recognises, records and publishes the Council’s governance arrangements as defined in the CIPFA/SOLACE Framework “Delivering Good Governance in Local Government”. It will be submitted to the Audit Committee.

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