

MEETING

CONSTITUTION, ETHICS AND PROBITY COMMITTEE

DATE AND TIME

MONDAY 24TH MARCH, 2014

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	Alan Schneiderman
Richard Cornelius	Alison Moore	Mark Shooter
	Barry Rawlings	Andrew Strongolou

Substitute Members

Lord Palmer	Rowan Quigley-Turner	Claire Farrier
Susette Palmer	Robert Rams	
Jim Tierney		

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

Andrew Nathan – Head of Governance

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ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	MINUTES OF LAST MEETING	
2.	ABSENCE OF MEMBERS (IF ANY)	
3.	DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)	
4.	PUBLIC QUESTION TIME (IF ANY)	
5.	MEMBERS' ITEMS (IF ANY)	
6.	CONSTITUTION DEVELOPMENT	1 - 224
7.	JOINT VENTURE BOARD AND CONSTITUTIONAL ADDITIONS	225 - 236
8.	ANY OTHER ITEM(S) THAT THE CHAIRMAN DECIDES ARE URGENT	

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Meeting	Constitution, Ethics and Probity Committee
Date	24 March 2014
Subject	Constitution Development
Report of	Assurance Director Head of Governance
Summary	<p>A review of the Constitution has taken place in accordance with Council instruction to consider the Committee style of governance as opposed to the current Executive model. Council on 21 January 2014 formally agreed to move to a committee system of governance with effect from Annual Council on 2 June 2014.</p> <p>This paper sets out further proposed changes to sections of the Constitution to reflect the new system, to ensure that by that date a fully updated Constitution is in force. It seeks the Committee’s guidance on proposed changes with a view to recommending them to Council for adoption.</p>

Officer Contributors	Maryellen Salter, Assurance Director Andrew Nathan, Head of Governance
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – Responsibilities for Functions/terms of reference Appendix B- Council Procedure Rules Appendix C- Meeting Procedure Rules

Appendix D- Financial regulations
Appendix E- Contract Procedure Rules
Appendix F- Assets, Land and Property Rules
Appendix G - HR Regulations
Appendix H - Members Code of Conduct
Appendix I - Members Planning Code of Conduct
Appendix J - Members Licensing Code of Conduct
Appendix K - Officer Code of Conduct
Appendix L - Protocol for Member-Officer Relations
Appendix M - Code of Corporate Governance
Appendix N- Public Participation Rules

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1. RECOMMENDATIONS

- 1.1 That the Committee comment on further proposals/options contained within this report for inclusion in the drafting of the Constitution.**
- 1.2 Officers be instructed make the required amendments to the proposed Constitution for inclusion in the papers for Full Council to consider and approve on 8 April 2014.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 22 January 2013- item 9
- 2.2 Constitution Ethics and Probity Committee, 8 July 2013 - item 6
- 2.3 Constitution Ethics and Probity Committee, 21 October 2013- item 7
- 2.4 Constitution Ethics and Probity Committee, 19 December 2013- item 7
- 2.5 Council, 21 January 2014- item 4.1

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The overriding purpose of a Governance System review is to ensure that the Council's decision making structures operate in a way that best enables the Council to deliver its objectives set out in the Corporate Plan.

4. RISK MANAGEMENT ISSUES

- 4.1 The process of managing the change of governance system through the Constitution Ethics and Probity Committee ensures that the proposals developed meet the needs of key stakeholders, and minimises the risk that the system may not achieve the desired outcomes determined at the start of the project.

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. This review of the Governance system will help ensure that this is the case and ensure the Council is meeting its equality obligations.
- 5.2 An extensive Equalities questionnaire was included within the first phase of Consultation of the change in system of governance and an analysis has been undertaken of different responses from relevant groups.

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

- 6.1 A commitment was made at Council that the effect of a move to a new system of governance would be cost neutral. All proposals will be costed to ensure they fit within this envelope.
- 6.2 The costs incurred to date are £9,205. This is funded from current budgets.

7. LEGAL ISSUES

- 7.1 The Localism Act 2011 allows Councils to return to a committee form of governance under schedule 2.

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

- 8.1 Council Constitution, Part 3, Section 3 – 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”.
- 8.2 This does not fall within the legal definition of a ‘key decision’.

9. BACKGROUND INFORMATION

- 9.1 During the course of the year the Constitution, Ethics and Probity Committee have been considering amendments to the Constitution to bring into effect the change to the Committee system form of governance. The Committee considered proposals between July 2013 and January 2014 for drafting within the Constitution. Council on 21 January 2014 agreed arrangements for a new Committee system, and relevant sections of the Constitution including Articles, Meeting Procedure Rules and responsibilities for Functions and Terms of Reference of all Committees. This enabled the statutory advertisement of the change to be placed.
- 9.2 The Constitution includes a series of rules around the use of resources (Finance, Human Resources, Assets Property and Land and Procurement) and codes and protocols relating to the conduct of Members. Officers reviewed these procedure rules and codes against the principle of ensuring that the procedures and codes will operate within the new committee system. As such this report reviews each of these and makes recommendations for amendment, principally though not exclusively those required as a consequence of moving to a new system.
- 9.3 In addition, following further consideration of how the new system will work in practice, some minor adjustments are proposed to meeting procedures, Terms of Reference for the new Committees and Committee membership.
- 9.4 This report outlines proposed changes and attaches relevant sections of the Constitution from Appendix A onwards with tracked changes for further consideration.
- 9.5 An unrelated change is also required to Public Participation Rules to clarify the regime governing representations on Tree Preservation matters.
- 9.6 Within the narrative of this report we have included the section of the Constitution, the changes made and the reasons for the change.

9.7 The following Table represents the sections of the current Constitution and the changes redrafted:

No.	Section	Reference	Changes contained within Document
1	Responsibility for Functions	Appendix A Pages 25 to 56	<p>1) Policy and Resources Committee (P&R)</p> <p>a) Internal Transformation: P&R has responsibility for internal transformation programmes. Consideration has been given to the involvement of thematic committees prior to P&R decision as most projects arising out of transformation programmes are likely to have specific themes (e.g. Parking Policy, Early Years Review).</p> <p>It is therefore suggested that an addition is made to the Terms of Reference for each theme committee to recognise their role: – “Discussion of transformation schemes not in service plans but not outside the Council’s budget or policy framework”</p> <p>Treasury Management: Amend table under heading (2) to say ‘Treasury Management Strategy’ as ‘activity’ will be included within reports to Performance and Contract Management Committee</p> <p>Procurement: Add ‘Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs)’, as this is a Resources issue rather than one relating to the performance of existing contracts.</p> <p>Barnet Group: Delete (6) and move the following: ‘approve Annual Report of the Barnet Group Ltd’ as this sits better with Performance and Contract Management, relating to the activities of an external Delivery Unit. Approval of the budget and business plan remains with P&R.</p>

No.	Section	Reference	Changes contained within Document
			<p data-bbox="842 285 2170 357">NOTE: There is an additional recommended addition to the terms of reference contained within the report elsewhere on this agenda in respect of the Joint Venture agreement.</p> <p data-bbox="842 405 1352 432"><u>Performance & Contract Management</u></p> <ol data-bbox="891 485 2170 1409" style="list-style-type: none"> <li data-bbox="891 485 2170 788">1. Item (2) in the terms of reference only covers external delivery units. It should also include internal delivery units (Adults & Communities; Children’s, Education & Skills; Street Scene; Public Health; Commissioning Group; Assurance). Recommended amendments to the ToR are as follows: “Monitoring of performance against targets by Delivery Units and Support Groups including: Customer Support Group; Re; The Barnet Group Ltd (including Barnet Homes and Your Choice Barnet); HB Public Law; NSL; Adults & Communities; Family Services; Education & Skills; Street Scene; Public Health; Commissioning Group; and Assurance” <li data-bbox="891 836 2170 908">2. Subject to the approval of the amendment to Item (2) above, Item (3) will need to be amended to refer to external delivery units only <li data-bbox="891 956 2170 1219">3. Item (5) – Thematic committees will be able to agree resources subject to these being approved within the budget and MTFS, and should have responsibility for approving contract extensions, variations etc as long as they are within budget and compliant with the rules around extensions, variations etc as set out in the CPRs. This has been incorporated within the Contract Procedure Rules. P&R will be required to approve a waiver of CPRs for any procurement activities that are not complaint with CPRs. These have therefore been taken out of this section. <li data-bbox="891 1267 2170 1294">4. amend table under heading (6) to include ‘Treasury Management Performance’ <li data-bbox="891 1342 2170 1409">5. Delete under item (6) ‘Corporate Procurement (including agreement of the Procurement Forward Plan and ageing exceptions to CPRs)’, as this is a Resources issue rather than one

No.	Section	Reference	Changes contained within Document
			<p>relating to the performance of existing contracts.</p> <p>6. Add responsibility previously under P&R 'approve Annual Report of the Barnet Group Ltd' as this sits better under this committee, relating to the activities of an external Delivery Unit.</p> <p>Education Children Libraries and Safeguarding Committee</p> <p><i>Co-Opted members</i></p> <p>At present, in order to comply with the Local Government Act and other legislation, the Education Overview and Scrutiny Committee provides for Co-opted Members representing the diocesan bodies and parent governors, as follows:</p> <p>Three Voluntary Aided School Representatives - to provide a faith perspective on education matters (Church of England; Roman Catholic; and Jewish Voluntary Aided representatives)</p> <p>Two Parent governor representatives (PGRs) elected by other parent governors to represent the views of all parents and hold the authority to account by consulting with and feeding back to parents on discussions and decisions relating to education.</p> <p>It is proposed these rights transfer to the new Education Children Safeguarding and Libraries Committee, but that their voting power is clarified. They will be able to speak on all matters but only vote on education matters. Matters on which they are entitled to vote will be clearly signalled on each agenda.</p> <p>In addition the Education Children Libraries and Safeguarding Committee needs to have added a new Term of Reference which was omitted and which is common to all theme committees:</p>

No.	Section	Reference	Changes contained within Document
			<p>- Develop Fees and Charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee</p> <p>Audit Committee</p> <p>These Terms of Reference have been updated to more accurately reflect the Committee’s existing responsibilities in respect of Anti-Fraud work.</p>
2	Full Council Procedure Rules	Appendix B Page 57 to 68	<p>At the meeting of the Committee on 14 January it was agreed in principle to permit written questions to be submitted to the Leader at Full Council. This is the proposed process to be written into Council Procedure Rules:</p> <p>.27.1 Members of the public are permitted to submit written questions to the Leader in accordance with the following provisions:</p> <ul style="list-style-type: none"> • Any question must be delivered by e-mail, to be received by the Head of Governance by 10.30am ten clear working days before the day of the meeting. Any questions submitted after that time will not be considered, • The question should not relate to a matter previously considered by a committee, • The question should not relate to a matter that is within the remit of a committee, or be a matter best addressed by a committee. If this is the case, then the question should be directed to the appropriate committee. • The question must not be in substance a question that has already been considered by the Leader in the preceding 6 months. <p>Every question will be answered in writing. The Leader may decline to answer a question. Any questions not answered will be directed to the next relevant meeting of the themed committee.</p>

No.	Section	Reference	Changes contained within Document
3	Part 4, Section 2- Meetings Procedures	Appendix C Pages 69 to 78	<p>Current Overview and Scrutiny Procedure Rules provide for two non-voting representatives appointed by the Barnet Homes Performance Advisory Group to be invited to attend and speak but not vote at any OSC where an issue relating to housing is being discussed.</p> <p>There is no current provision in the proposed new Constitution for this. The views of the Committee are requested but it is proposed that in practice this, and any other co-optee arrangements, can be discharged through a general power for Chairmen to invite expert witnesses to contribute, which will provide a greater measure of flexibility.</p> <p>A new paragraph has therefore been added at 4.4 to make this explicit.</p> <p>This does not affect the existing membership of Audit Committee which includes two independent non-voting members.</p>
4	Financial Regulations	Appendix D Pages 79 to 104	<p>These have been reviewed, principally to ensure that the former functions of Cabinet, Cabinet Resources Committee and Cabinet members have been reallocated to appropriate committees. References to the Audit Commission and Council posts that no longer exist have also been changed suitably.</p> <p>The particular attention of the Committee is drawn to table 4.4.3 which consolidates the scenarios in which virements would be posted. It also makes certain scenarios, which were previously silent, explicit (e.g. capital additions and allocations from contingency under £250k). The scheme of delegation gives powers of approvals as follows:</p> <ul style="list-style-type: none"> - to officers in three scenarios; within service virements where the bottom line does not

No.	Section	Reference	Changes contained within Document
			<p>change, contingency allocations below £250k and between service virements below £250k.</p> <ul style="list-style-type: none"> - to Performance and Contract Management committee for contingency allocations over £250k, in year capital budget and funding transfers between projects and in year project deletions; - to Policy and Resources for resource allocation decisions, i.e. between service virements over £250k and in year capital additions to the programme. <p>Explanation of the different roles of Policy and Resources Committee and Performance and Contracts.</p>
5	Contract Procedure Rules	Appendix E Pages 105 to 118	<p>Amendments are required to reflect the new committee system and increase the robustness of the Contract Procedure Rules.</p> <p><u>Section 3 – Scope</u></p> <p>3.2 The current document referred to Exempted services, but this term is not used or authorised therefore has been removed. Approval by Procurement has been removed as it does not relate to any procurement activity and therefore requires Finance approval only.</p> <p><u>Section 7 – Authorisation</u></p> <p>7.1 Removal of additions as this is incorrect. Removal of reference to annual budget as this section relates only to authorisation to procure. Reference ‘Cabinet Resources Committee’ changed to ‘Policy and Resources Committee’ as per the Council change to a committee council structure.</p>

No.	Section	Reference	Changes contained within Document
			<p><u>Section 8 – Procurement Method</u></p> <p>8.2 Additional reference to non-procurement activity in the list to provide complete clarity. Non-procurement defined in definitions.</p> <p><u>Section 12 – Contract Signing and Sealing</u></p> <p>12.3 Formal change of the OJEU threshold due to currency fluctuation. This is a change effected every two years on the 1st January.</p> <p><u>Section 13 – Contract Management</u></p> <p>13.1 Increasing the robustness of contract management and action if performance dips. Removed the reference to key performance indicators met, and added key performance indicators are monitored and any reduction in performance is acted upon and recorded;</p> <p>13.4 Formal change of the OJEU threshold due to currency fluctuation. This is a change effected every two years on the 1st January.</p> <p><u>Section 15 – Waivers</u></p> <p>15.4 Removal of ‘and will count as a variation’. A waiver does not necessarily result in a variation of contract and therefore this needs to be removed.</p> <p><u>Section 16 – Definitions</u></p> <p>Re-arrange into alphabetical order.</p>

No.	Section	Reference	Changes contained within Document
			<p><u>Appendix 1 Table A</u></p> <p><i>Procurement Value amended where appropriate</i></p> <ul style="list-style-type: none"> • Formal change of the OJEU threshold due to currency fluctuation. This is a change effected every two years on the 1st January. <p><i>Governance</i></p> <ul style="list-style-type: none"> • A proposed revised series of authorisation thresholds have been developed. These reflect the following principles: • Policy and Resources has overall responsibility for procurement strategy and compliance with CPRs, and will sign off the overall Procurement Forward plan to provide democratic authorisation for tender exercises. • Theme Committees are the main vehicles for individual procurements. • Any procurements not on a Forward Plan must be separately agreed by the relevant theme committee • Having a single set of approval procedures for all contracts above the EU threshold, rather than making a distinction between those under or over £500,000. • Acceptance of tenders, provided within budget and not departing from the agreed authorisation, can be agreed by Officers, but above a certain threshold the Chairman of the theme committee must be consulted. This broadly replaces the current powers of individual Cabinet members.
6	Asset Land and Property Rules	Appendix F Pages 119 to 132	Changes have been made to reflect the new committee structure and the role of the new Assets, Regeneration and Growth Committee. The frequency of meetings will need to be kept under review to ensure that there are as few urgent transactions as possible which will need to be handled by the Urgency Committee.

No.	Section	Reference	Changes contained within Document
			<p>A number of other changes are proposed to improve the drafting and to reflect current market conditions.</p> <p>Section 2 - Application</p> <p>2.1 – Inclusion of appropriation (change of status) as this previously missed from the review.</p> <p>2.3 – First bullet changed to be more specific to disposals and additional bullet added for acquisitions.</p> <p>2.4 – Change due to new Committee structure Cabinet Resources Committee to read Assets Regeneration and Growth Committee.</p> <p>2.6 – Changes to the titles of the documents. Asset Management Strategy is now the Strategic Asset Management Plan (SAMP) and Asset Management Plan is now the now the Annual Work Plan (AWP).</p> <p>2.7 – As above</p> <p>2.8 – As above</p> <p>2.9 – Change Asset Management Plan to Annual Work Plan.</p> <p>2.9 (i) - Clarification of disposals of assets within the Annual Work Plan.</p> <p>2.9 (iii) - Inclusion of Appropriation (see 2.1 above)</p> <p>2.10 – Clarification of ancillary accommodation eg sports facilities must be wholly used by the school to transfer to Academy status.</p>

No.	Section	Reference	Changes contained within Document
			<p>2.12 - Changes to the titles of the documents as per 2.6 above.</p> <p>2.15 – Reference made to the Procedures as these must link to the Rules.</p> <p>2.16 – This section has been added to describe how to report the result of public advertising in the event that there is opposition to the result and no immediate forum is available to report feedback.</p> <p><u>Section 3 – Scope</u></p> <p>3.3 - Reference made to The Management of Real Estate, Property and Land Procedures as these must link to the Rules.</p> <p><u>Section 4 – Regulation & Legislation</u></p> <p>4.1 – Removed because it is duplicated within 4.2 and 4.3 (now 4.1 and 4.2).</p> <p>4.2 – Changes to the titles of the documents. –see 2.6 above</p> <p>4.3 – (Now 4.2) Corporate Estates now replaced by the Authority’s Estates Service to reflect outsourcing arrangements.</p> <p><u>Section 5- Roles and Responsibilities</u></p> <p>5 – Sentence re-worded to give clarity on roles and responsibility for Directors who manage Council</p>

No.	Section	Reference	Changes contained within Document
			<p>buildings.</p> <p>5.8 – Addition to the rules to make clear the roles and responsibility of Health and Safety management.</p> <p>5.9 - To ensure that Directors who are responsible for Council buildings work in conjunction with the Authority’s Estates Services.</p> <p><u>Section 6 – Asset Value Consideration</u></p> <p>6.2 - Clarity that the valuer has to be registered.</p> <p>6.3 – Correction as it should have read highest price in comparison to Best Consideration. The word ‘best’ was used incorrectly.</p> <p>6.4 – Extra clarity of when there is a requirement for special consent and now incorporated into 6.3.</p> <p><u>Section 7 – Authorisation</u></p> <p>7.1 – Change of wording to reflect change to Committee structure (CRC to ARG) and change Asset Management Plan to Annual Work Plan.</p> <p>7.3 - (Now 7.2) Clarification as change of use has planning implications and this sections actually refers to service delivery from the building. Change due to Committee structure Cabinet Resources Committee to read Assets Regeneration and Growth Committee.</p>

No.	Section	Reference	Changes contained within Document
			<p><u>SECTION 8 – ASSET ACQUISITION, VARIATION AND DISPOSAL METHOD</u></p> <p>8.5 – Clarify the process for a variation to a previous decision.</p> <p><u>Section 12 – Waivers</u></p> <p>Wording added to this section to clarify the process if there is a need for a waiver to the rules to ensure the continuity of Council’s business.</p> <p><u>13 – Definitions</u></p> <p>13.4 – added to included definition of appropriation.</p> <p>13.6 – Asset Management Plan document now call Annual Work Plan.</p> <p>13.9 – The £2million value relates to an approval process and not a definition.</p> <p>13.14 – Addition of leased as this could also be a disposal dependent on length of lease. Best consideration removed as disposal could be less than best. If leased the freehold is retained and not removed from the Asset Register portfolio.</p> <p>13.15 – Asset Management Strategy should read Strategic Asset Management Plan.</p> <p>13.18 – Expanded the definition to include that market testing includes collation of competitive bids.</p> <p>13.23 – Addition of definition of Council’s Estates Senior Responsible Officer.</p> <p><u>Appendix 1 Table A</u></p> <p>Less than £5,000 for property transactions in Barnet is not relevant in today’s market and therefore the lower value has been increase to £10,000 which is still considered low. This will allow the majority</p>

No.	Section	Reference	Changes contained within Document
			<p>of regular commercial lettings to proceed through one common and more efficient process. This will still be a summary DPR sign off.</p> <p>Transactions between £25,000 and £100,000 previously authorised by Cabinet Member delegated power are proposed to be dealt with by Officer DPR. (new Row C).</p> <p>Non value variation post authorisations have been added to capture any amendments that do not have a financial implication.</p> <p>All other changes on the table have been made to reflect the new Committee Structure.</p> <p>Appendix 2 Table B</p> <p>Less than £5,000 for property transactions in Barnet is not relevant in today's market and therefore the lower value has been increase to £10,000 which is still considered low. This will allow the majority of regular commercial lettings to proceed through one common and more efficient process. This will still be a summary DPR sign off.</p> <p>All other changes on the table have been made to reflect the new Committee Structure.</p>
7	HR Regulations	<p>Appendix G</p> <p>Pages 133 to 138</p>	<p>These have been reviewed to cover the following:</p> <p>Generic references to 'Human Resources' have been changed to make clear the Head of Paid Service's statutory responsibilities and to ensure a named position has responsibility;</p> <p>References to the Executive have been deleted.</p> <p>One consequence of this is that any Member, and not only those on the Executive, is able to make a well-founded objection to any proposed Remuneration Committee appointments.</p>

No.	Section	Reference	Changes contained within Document
7	Members Code of Conduct	Appendix H Pages 139 to 148	Retain the current Code but make changes where reference has been made to Executive to the following paras: 1(4), 8.3, 8.4, 9.2, 12.1, 12.2 and Appendix 2, section (i). At 11.1 add a requirement to declare gifts and hospitality offered but declined, as well as accepted, that are over the £25 de minimis level.
8	Members Planning Code of Practice	Appendix I Pages 149 to 158	No change other than removing reference to Executive at para 1.1
9	Members licensing Code of Practice	Appendix J Pages 159 to 170	No changes proposed.
10	Officer Code of Conduct	Appendix K Pages 171 to 186	No changes proposed.
11	Protocols for Member-Officer Relations	Appendix L Pages 187 to 202	Below paragraphs have been amended as they made reference to Executive: 2.2, 2.4, 5.6, 9.1, 9.2, 13.1

No.	Section	Reference	Changes contained within Document
12	Code of Corporate Governance	Appendix M Pages 203 to 216	<p>The Annual Governance Statement needs to be aligned to the Code of Corporate Governance. It is being reviewed with a view to approval by Audit Committee in July.</p> <p>For the time being, the Code has been amended where it makes reference to Executive or Scrutiny function to ensure that it is compliant with the change to a Committee System:</p> <p>2.1, 2.2, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 6.1, 6.3</p>
13	Public Participation Rules	Appendix N Pages 217 to 224	<p>There is a discrepancy between the procedure set out in Tree Preservation Regulations and the Council's Constitution in respect of Public Comments on Tree Preservation Orders.</p> <p>Section 4.1 of the Constitution states "For requests to speak on planning applications or tree preservation orders at planning Committee or Sub-Committee meetings, the following rules apply." However the term 'tree preservation orders' could be ambivalent, as there are two separate procedures;</p> <p>(i) Applications for consent to undertake treatment of tree(s) already included in an Order</p> <p>(ii) The formal procedure of making / confirmation of a Tree Preservation Order itself.</p> <p>In regards to the latter, the Constitution currently allows public speaking in circumstances that appear to undermine the legislative provisions for the making and confirming of TPOs as currently set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012; which is secondary legislation to the Town and Country Planning Act 1990.</p> <p>These detail that, as soon as practicable after making an Order, specified actions need to be undertaken which include serving / making available copies of the Order and information about how to submit objections or other representations in accordance with Regulation 6.</p> <p>Regulation 6 states that objections and representations to an Order must be made in writing within a specified time period and include particular information; and that only if compliance with the stated requirements could</p>

No.	Section	Reference	Changes contained within Document
			<p>not reasonably have been expected, may any other objections or representations be taken into account.</p> <p>Regulation 7 states that the Council must consider duly made objections and representations before deciding whether to confirm an Order.</p> <p><u>Constitution - Public Comments</u></p> <p>There is no requirement in the Constitutional provisions that any substantive information be submitted – only a request to speak needs to be sent by post or e-mail.</p> <p>Therefore, there is no obligation to submit an objection or representation in accordance with the timeframe and specifications in the Regulations.</p> <p><u>This</u> potentially puts the Council in a position of considering objections or representations that have not been ‘duly made’ as defined by the Regulations and failure to adhere to statutory requirements could result in legal challenge to the validity of a Tree Preservation Order confirmed in such circumstances.</p> <p>Part of the reason for requiring that objections and representations be submitted in writing within a specified timeframe is to allow an opportunity for matters raised to be investigated - which may, for example, involve site visits, further assessment, or cartographical revisions. It would not be possible to undertake such investigations if the first mention of an issue is by a Public Speaker at a Committee or Sub-Committee meeting; and it may not be possible for an Officer to address Speakers or Members queries on new matters.</p> <p>As there is a six month time limit for confirmation of Tree Preservation Orders, there is potential for an Order to lapse if matters are raised at a very late stage with insufficient time for assessment.</p> <p><u>Proposed amendments</u></p> <p>It is therefore proposed that the wording of section 4.1 be amended to clarify that the requests to speak refer only to planning applications or applications for consent to undertake treatment of tree(s) included in a Tree</p>

No.	Section	Reference	Changes contained within Document
			<p>Preservation Order – but not to making / confirmation of a Tree Preservation Order.</p> <p>It is also proposed that section 5.1, which details exceptions to public speaking arrangements, be amended to include the making / confirmation of Tree Preservation Orders as the procedure for making objections or representations is prescribed by the Town and Country Planning Act 1990 and the <u>Town and Country Planning (Tree Preservation) (England) Regulations 2012</u>.</p>

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	LC

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APPENDIX A

ANNEXE A TO RESPONSIBILITY FOR FUNCTIONS- Membership and Terms of Reference of Committees

Body responsible	Functions	Membership										
Policy and Resources	<p>(1) To be the principal means by which advice on strategic policy and plans is given and co-ordinated and to recommend to Full Council, as necessary, on strategic issues. This is to include:</p> <ul style="list-style-type: none"> • Approval of the Corporate Plan • Council’s Capital and Revenue Budget setting (subject to Full Council) and Medium Term Financial Strategy • Ensuring effective Use of Resources and Value for Money <p>(2) To be responsible for the overall strategic direction of the Council including the following specific functions/activities:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 50%; padding: 5px;">(1)• Customer Care, Communications and Resident Engagement</td> <td style="width: 50%; padding: 5px;">(2)• Strategic Partnerships</td> </tr> <tr> <td style="padding: 5px;">(3)• Equalities, Diversity and Community Cohesion</td> <td style="padding: 5px;">(4)• Local Development Framework and associated documents (for adoption by Full Council)</td> </tr> <tr> <td style="padding: 5px;">(5)• Internal Transformation programmes</td> <td style="padding: 5px;">(6)• Local Taxation-Billing, Collection and Recovery</td> </tr> <tr> <td style="padding: 5px;">(7)• Write off of debt</td> <td style="padding: 5px;">(8)• Insurance</td> </tr> <tr> <td style="padding: 5px;">(9)• Treasury Management Strategy and Activity</td> <td style="padding: 5px;">(10)• Information Technology provision</td> </tr> </tbody> </table>	(1)• Customer Care, Communications and Resident Engagement	(2)• Strategic Partnerships	(3)• Equalities, Diversity and Community Cohesion	(4)• Local Development Framework and associated documents (for adoption by Full Council)	(5)• Internal Transformation programmes	(6)• Local Taxation-Billing, Collection and Recovery	(7)• Write off of debt	(8)• Insurance	(9)• Treasury Management Strategy and Activity	(10)• Information Technology provision	<p>12, Chairman and Vice Chairman to be appointed by Council. Committee to be made up in accordance with proportionality.</p>
(1)• Customer Care, Communications and Resident Engagement	(2)• Strategic Partnerships											
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	<p>(11) Housing Benefit, Council Tax Support and Welfare programmes</p>	<p>(12) Health and Safety (13) Mayoralty budget</p>	
	<p>• <u>Corporate Procurement (including agreement of the Procurement Forward Plan and agreeing exceptions to CPRs)</u></p>	<p>• _____</p>	
	<p>(3) To submit recommendations to the Council in the event of a difference of opinion arising between committees upon a matter which falls within the terms of reference of more than one committee.</p> <p>(4) To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.</p> <p>(5) To consider and take any necessary action upon proposals for new legislation, Bills before Parliament, Acts of Parliament and other proceedings before Parliament affecting or likely to affect the interests of the Borough or its inhabitants generally where not the specific concern of any other committee(s). The promotion of Bills and Provisional and Statutory Orders in Parliament shall be dealt with by the Council.</p> <p>(6) Approve the budget <u>and</u> business plan and Annual Report of the Barnet Group Ltd</p> <p>(7) To allocate a budget, as appropriate, for Area Sub-Committees and agree a framework for governing how that budget may be spent.</p> <p>(8) To represent Barnet's strategic interests in dealings with sub-regional, regional and national Government and influence relevant tiers of Government</p> <p>(9) To consider petitions that contain between</p>		

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	<p>2000 and 6999 signatures in accordance with Public Participation Procedure rules.</p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee.</p>			
<p>Performance and Contract Management</p>	<p>(1) Overall responsibility for quarterly budget monitoring, including monitoring trading position and financial strategy of Council Delivery Units</p> <p>(2) Monitoring of Performance against agreed financial and performance targets by <u>Delivery Units and Support Groups</u> External providers including <u>Customer Support Group</u>; Re; the <u>Barnet Group Ltd (including Barnet Homes and Your Choice Barnet)</u>; HB Public Law; and NS; <u>Adults and Communities; Family Services; Education and Skills; Street Scene; Public Health; Commissioning Group; and Assurance.</u></p> <p>(3) Receive and scrutinise contract variations and change requests in respect of the above contracts <u>external delivery units.</u></p> <p>(4) To make recommendations to Policy and Resources and Theme Committees on relevant policy and commissioning implications arising from the scrutiny of performance of Delivery Units and External Providers — Agreeing exceptions to Contract Procedure Rules and decisions in relation to approved lists and agreed national registers, authorise post tender negotiations and accept tenders that are not the lowest</p> <p>(5) Specific responsibility for the following functions within the Council:</p> <table border="1" data-bbox="347 1792 863 1892"> <tr> <td data-bbox="347 1792 603 1892"> <p>(14) <u>Risk Management</u></p> </td> <td data-bbox="603 1792 863 1892"> <p><u>Treasury Management Performance</u></p> </td> </tr> </table>	<p>(14) <u>Risk Management</u></p>	<p><u>Treasury Management Performance</u></p>	<p>10</p> <p>Chairman and Vice Chairman to be appointed by Council. Remainder to be made up in accordance with proportionality</p>
<p>(14) <u>Risk Management</u></p>	<p><u>Treasury Management Performance</u></p>			

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	<p><u>(6) Approve the Annual Report of the Barnet Group Ltd</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee.</p>	
<p>Children, Education, Libraries and Safeguarding</p>	<p>1) Specific responsibilities include:</p> <ul style="list-style-type: none"> • Planning the adequate provision of school places in the Borough • Investment in educational infrastructure to meet the needs of the Borough's learners • Development and enhancement of the Library Service • Development of cultural activities • To be responsible for those powers, duties and functions of the Council in relation Children's Services (including schools): <p>(2) Lead the Council's responsibilities under the Children Act 2004 and Education and inspection Act 2007</p> <ul style="list-style-type: none"> • Oversee effective support for young people in care; and enhance the Council's corporate parenting role • Oversee the multi-agency Youth Offending Team • Oversee the effective provision of support across partners for the well-being of vulnerable families - including the Troubled Families programme <p>(3) Approve the Children and Young People Plan and associated sub strategies promoting the following areas:</p> <ul style="list-style-type: none"> • Education • Inclusion • Child Poverty • Early Intervention and Prevention <p>(4) Grants to Voluntary Sector within the remit of the Committee</p> <p>(5) To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.</p> <p>(6) To ensure that the Council's safeguarding responsibilities are taken into account.</p>	<p>10</p> <p>Chairman and Vice chairman to be appointed by Council. Requirement to have a Lead Member for Children's Services. Remainder to be made up in accordance with proportionality</p> <p><u>Co-Opted Members</u></p> <p><u>The following co-opted members will be appointed. They may speak on all matters but only vote on those identified on the agenda as being education matters.</u></p> <p><u>Three Voluntary Aided School Representatives - to provide a faith perspective on education matters (Church of England; Roman Catholic; and Jewish Voluntary Aided representatives)</u></p> <p><u>Two Parent governor representatives (PGRs) elected by other parent governors to represent the views of all parents and hold the authority to account by consulting</u></p>

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	<p>(7) To receive and consider reports as appropriate from the Children's Trust Board</p> <p><u>(8) Develop Fees and Charges for those areas under the remit of the Committee for consideration by Policy and resources Committee</u></p> <p><u>(9) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee</p>	<p><u>with and feeding back to parents on discussions and decisions relating to education.</u></p>		
<p>Adults and Safeguarding</p>	<p>(1) Specific responsibilities include: To be responsible for those powers, duties and functions of the Council in relation to Adults and Communities including the following specific functions:</p> <ul style="list-style-type: none"> • Promoting the best possible Adult Social Care services <p>(2) Work with partners on the Health and Well Being Board to ensure that social care, interventions are effectively and seamlessly joined up with public health and healthcare and promote the Health and Well Being Strategy and its associated sub strategies.</p> <p>(3) Develop fees and charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee</p> <p>(4) Specific responsibilities to include:</p> <table border="1" data-bbox="327 1552 868 1688"> <tr> <td data-bbox="327 1552 596 1688"> <p>(15)• Leisure Services.</p> </td> <td data-bbox="596 1552 868 1688"> <p>(16)• Grants to Voluntary Sector within the remit of the Committee</p> </td> </tr> </table> <p>(5) To ensure that the Council's safeguarding responsibilities are taken into account.</p> <p>(6) To approve any non-statutory plan or strategy within the remit of the Committee</p>	<p>(15)• Leisure Services.</p>	<p>(16)• Grants to Voluntary Sector within the remit of the Committee</p>	<p>10</p> <p>Chairman and Vice Chairman appointed by Council. Remainder to be made up in accordance with proportionality</p>
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	<p>that is not reserved to Full Council or Policy and Resources.</p> <p><u>(7) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee</p>															
Environment	<p>(1) To include specific responsibilities for commissioning the following:</p> <table border="1" data-bbox="360 857 868 1870"> <tr> <td data-bbox="360 857 611 1055">(17) Street Scene including pavements and all classes of roads</td> <td data-bbox="611 857 868 1055">(18) Parking provision and enforcement</td> </tr> <tr> <td data-bbox="360 1055 611 1133">(19) Road Safety</td> <td data-bbox="611 1055 868 1133">(20) Street Lighting</td> </tr> <tr> <td data-bbox="360 1133 611 1451">(21) Transport and traffic management-including agreement of London Transport Strategy-Local Implementation Plan</td> <td data-bbox="611 1133 868 1451">(22) Refuse and recycling</td> </tr> <tr> <td data-bbox="360 1451 611 1529">(23) Street Cleaning</td> <td data-bbox="611 1451 868 1529">(24) Waste Minimisation</td> </tr> <tr> <td data-bbox="360 1529 611 1615">(25) Waterways</td> <td data-bbox="611 1529 868 1615">(26) Allotments</td> </tr> <tr> <td data-bbox="360 1615 611 1736">(27) Parks and Open Spaces</td> <td data-bbox="611 1615 868 1736">(28) Fleet Management</td> </tr> <tr> <td data-bbox="360 1736 611 1870">(29) Trees</td> <td data-bbox="611 1736 868 1870">(30) Cemetery and crematorium and Mortuary</td> </tr> </table>	(17) Street Scene including pavements and all classes of roads	(18) Parking provision and enforcement	(19) Road Safety	(20) Street Lighting	(21) Transport and traffic management-including agreement of London Transport Strategy-Local Implementation Plan	(22) Refuse and recycling	(23) Street Cleaning	(24) Waste Minimisation	(25) Waterways	(26) Allotments	(27) Parks and Open Spaces	(28) Fleet Management	(29) Trees	(30) Cemetery and crematorium and Mortuary	<p>10</p> <p>Chairman and Vice Chairman appointed by Council. Remainder to be made up in accordance with proportionality</p>
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	<p>(31)• Trading Standards</p>	<p>(32)• Contaminated land and all statutory nuisances.</p>
<p>(2) 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"> • creating, stopping up and diverting footpaths and bridleways • asserting and protecting public rights to use highways • removing things deposited on highways which cause nuisance <p>(3) Gaming, entertainment, food and miscellaneous licensing in so far as not otherwise the responsibility of the Licensing Committee or the Licensing Sub-Committee <i>Health and Safety regulation (otherwise than as an employer).</i></p> <p>(4) Develop fees and charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee</p> <p>(5) Specific responsibilities to include:</p> <ul style="list-style-type: none"> • Grants to Voluntary Sector within the remit of the Committee <p>(6) To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.</p> <p><u>(7) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report</p>	<p>• Flood Risk Management (scrutiny aspect)</p>	

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	will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee.	
Assets, Regeneration and Growth	<p>1) Specific responsibilities include:</p> <ul style="list-style-type: none"> • Develop and oversee a Regeneration Strategy • Develop strategies which maximise the financial opportunities of growth- e.g. New Homes Bonus, localisation of business rates • Promote skills and enterprise and approve a Skills Enterprise and Employment Strategy (having regard to the views of the Lead member for Childrens Services on relevant matters) • Engagement with the business community and measures to support local business • Oversee major regeneration schemes- including those of key social housing estates • Town Centre regeneration programmes • Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council • Neighbourhood Plans (for adoption by Full Council) <p>(2) Develop fees and charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee</p> <p>(3) Specific responsibilities to include:</p> <ul style="list-style-type: none"> • Grants to Voluntary Sector within the remit of the Committee <p>(4) To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.</p> <p><u>(5) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report</p>	<p>10</p> <p>Chairman and Vice Chairman appointed by Council. Remainder to be made up in accordance with proportionality</p>

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Housing	<p>(1) Specific responsibilities include:</p> <ul style="list-style-type: none"> • Housing Strategy (incorporating Homelessness Strategy) • Work with Barnet Homes, RSLs and social housing providers to ensure the optimum provision of housing and associated facilities for those who require social housing • Commissioning of Environmental Health • Promote the better integration of privately rented properties into the Borough's framework; • All matters related to Private sector Housing including Disabled Facility Grants • Housing licensing and housing enforcement <p>(2) Develop fees and charges for those areas under the remit of the Committee for consideration by Policy and Resources Committee</p> <p>(3) Specific responsibilities to include:</p> <ul style="list-style-type: none"> • Grants to Voluntary Sector within the remit of the Committee <p>(4) To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.</p> <p><u>(5) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources</p>	10 Chairman and Vice Chairman appointed by Council. Remainder to be made up in accordance with proportionality

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	Committee	
Community Leadership	<p>Specific responsibilities include:</p> <ul style="list-style-type: none"> • Grants to Voluntary Sector within the remit of the Committee • Responsibilities for the Registration and Nationality Service • Emergency Planning • Civic events <p>(1) To oversee arrangements for cross partner co-operation including any pooling of budgets (other than those within the remit of the Health and Well Being Board) e.g. Community Budgets</p> <p>(2) To maintain good community relations with Barnet's diverse communities ensuring that all communities have the opportunity to participate fully in the Borough's affairs</p> <p>(3) To contribute to achieving better outcomes in the Safer Communities Strategy through CCTV, fighting crime and anti-social behaviour, combating graffiti flytipping and other environmental crime, action against Domestic Violence and any other relevant Council activity.</p> <p>(4) To work together with partners on the Barnet Safer Communities Partnership including Police, Fire and Criminal Justice Agencies to help make Barnet a safer place.</p> <p>(5) Provide scrutiny aspect of Community Safety</p> <p>(6) To approve any non-statutory plan or strategy within the remit of the Committee that is not reserved to Full Council or Policy and Resources.</p> <p><u>(7) Discussion of transformation schemes not in service plans but not outside the Council's budget or policy framework</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear,</p>	<p>10</p> <p>Chairman and Vice Chairman appointed by Council. Remainder to be made up in accordance with proportionality</p>

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	then the report will be discussed and determined by the Policy and Resources Committee.	
Area Sub Committees	<p>1. Consider matters raised at Residents Forums and determine how they are to be taken forward, including whether to request a report for a future meeting, refer to an Officer and/or ward councillors</p> <p>2. Discharge any functions, within the budget and policy framework agreed by P and R, of the theme committees that they agree are more properly delegated to a more local level. These include but are not limited to:</p> <ul style="list-style-type: none"> • <i>Town Centre Regeneration and Management</i> • <i>Sewers, drainage, public conveniences, water courses</i> • <i>Refuse collection, litter, cleansing, waste and recycling</i> • <i>Parks, open spaces, nature reserves, allotments, recreation and leisure facilities</i> • <i>Libraries and Culture</i> • <i>Cemeteries and Crematoria</i> • <i>Recommending the creation of Conservation Areas to Environment Committee</i> • <i>Day to day environmental issues and management of land on Council Housing estates</i> • <i>Local highways and safety schemes</i> <p>3. Considering any proposals for Neighbourhood Planning under the 2011 Localism Act and proposing plans to the Assets, Regeneration and Growth Committee.</p> <p>4. Administer any local budget delegated from Policy and Resources Committee for these sub-committees in accordance with the framework set by the Policy and Resources Committee..</p> <p>5. Powers to deal with small public works</p> <p>Area Sub-Committees should not deal with issues that are specifically within the remit of other committees (e.g. Licensing), that should be exercised at a Borough wide level or that are outside the budget and policy framework.</p>	<p>10</p> <p>Chairman and Vice Chairman appointed by Council.</p> <p>One Member and one Substitute member for each Ward.</p>

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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>	<p>10 Councillors</p> <p>Chairman and Vice Chairman appointed by Council.</p>
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>	<p>10 Councillors</p> <p>Chairman and Vice Chairman appointed by Council.</p>

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<p>Audit Committee</p>	<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>Chairman and Vice Chairman appointed by Council.</p> <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 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>
<p> </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, plan 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. 	

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	<p>9. To commission work from the internal and external audit, proportionate to risk identified and with agreement from Chief Executive.</p> <p><u>Anti Fraud Activity</u></p> <p><u>10. To monitor the effective development and operation of the Council's Corporate Anti-fraud Team (CAFT)</u></p> <p><u>11. To consider the anti-fraud strategy, annual anti-fraud work plan and CAFT Annual Report.</u></p> <p><u>12. To consider regular anti-fraud progress reports and summaries of specific fraud issues and investigation outcomes</u></p> <p><u>13. To monitor the Council's Counter Fraud framework and policies within and recommend their application across the Council.</u></p> <p><u>Regulatory Framework.</u></p> <p>10.4. To review any issue referred to it by the chief executive or a director, or any Council body.</p> <p>11.5. 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>13.16. To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.</p> <p><u>Accounts</u></p> <p>14.17. 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</p>	
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	<p>Council.</p> <p>15<u>18</u>. 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>19<u>6</u>. The Audit Committee shall prepare a report to Full Council on annual basis on its activity and effectiveness</p>	
<p>Appeals Committees</p>	<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 compensation scheme. 	<p>Chairman and Vice Chairman appointed by Council.</p> <p>10 councillors</p> <p>Plus 2 substitutes from each political group.</p>
<p>Planning Committee</p>	<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 Sub-committee or officer.</p> <ul style="list-style-type: none"> • planning applications which involve a significant departure from the statutory development plan; 	<p>Chairman and Vice Chairman appointed by Council.</p> <p>10 Councillors</p>

	<ul style="list-style-type: none"> • 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> <p>Commons registration and town and village greens including powers of protection and enforcement although in practice these specific functions will be discharged by officers.</p> <p>(Which may include considering the recommendations of a non-statutory inquiry chaired by an independent person).</p> <p>Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning.</p>	
<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</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</p>

	<p>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. Delays in determining applications will jeopardise the Council's ability to meet national performance criteria and impact adversely on the interests of residents and affected applicants.</p>	<p>Woodhouse</p> <hr/> <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>
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	<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 under 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. • Any ‘other’ or ‘minor’ developments as defined by the DCLG in PS1/PS2 Planning statistical categories of developments, for example 9 or less dwellings, advertisements, Listed Building and Conservation Area consents.) 	
General Functions	All other Council functions that are not	7 Councillors

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<p>Committee</p>	<p>reserved to Full 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 Policy and 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 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</p>	<p>Chairman and Vice Chairman appointed by Council.</p>
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	the HR regulations.	
Constitution, Ethics and Probity Committee	<p>To have responsibility for overseeing the Council's governance arrangements</p> <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>	<p>8 Councillors</p> <p>Chairman and Vice Chairman appointed by Council.</p>
Group Leaders Panel	<p>To investigate and determine allegations of a breach of the Code of Conduct for Members in the context of satisfying the Council's continuing duty to promote and maintain high standards of conduct for Members.</p>	<p>5 Councillors. To include the Leaders of the political groups.</p> <p>Chairman and Vice Chairman appointed by Council.</p> <p>The Panel will take account of the views of an Independent Person.</p>
Pension Fund Committee	<p>As set out in the Pension Fund Governance Compliance Statement appended.</p>	<p>Chairman and Vice Chairman appointed by Council.</p> <p>6 Councillors</p>
Remuneration Committee	<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>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 	<p>Chairman and Vice Chairman appointed by Council.</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 political group</i></p>

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	<p>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> <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> <p>a. To develop and approve the Pay Policy and be responsible for the publication of the annual statement, which will include:</p> <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 • 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 	
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	<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 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>	

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	<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 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>	
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<p>Health and Well-Being Board</p>	<ol style="list-style-type: none"> 1. 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. 2. 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 delivered. 3. 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. 4. 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 5. To receive assurance from all relevant commissioners and providers on matters relating to the quality and safety of services for users and patients 6. 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. 7. 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. 8. To receive the Annual Report of the Director of Public Health and commission 	<p>Chairman and Vice Chairman appointed by Council.</p> <p>Three Members of the Council</p> <p>Director of Public Health, 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>NHS England</p> <p>NOTE 1: Each member will be able to nominate a substitute member is 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</p>

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	<p>and oversee further work that will improve public health outcomes.</p> <p>9. Specific responsibilities for:</p> <ul style="list-style-type: none"> • Overseeing public health • Developing further health and social care integration. 	<p>proportionality</p> <p>Allow voting rights to members other than Members of the Council.</p>
<p>Health Overview and Scrutiny Committee</p>	<ol style="list-style-type: none"> 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 Council, Health and Well Being Board, the Secretary of State for Health 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, matters of concern, and consultations from the NHS Barnet Health and Wellbeing Board, Health Watch and/or other health bodies. 4. To scrutinise and review promotion of effective partnerships between health and social care, and other health partnerships in the public, private and voluntary sectors. 5. 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. 	<p>10 Members</p> <p>Chairman and Vice-Chairman to be appointed by Council -</p>

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<p>Urgency Committee</p>	<p>To consider any item of business which needs a decision as a matter of urgency and where a meeting of the relevant Committee is not scheduled to take place within the time period within which the decision is required.</p>	<p>3 members Leader, Deputy Leader, Leader of the Opposition Chairman and Vice Chairman appointed by Council.</p>
<p><u>Residents Forums</u></p> <p><u>Chipping Barnet Residents Forum</u> <u>Underhill, High Barnet, East Barnet, Oakleigh, Brunswick Park, Coppetts and Totteridge Wards.</u></p> <p><u>Hendon Residents Forum</u> <u>(Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards)</u></p> <p><u>Finchley and Golders Green Residents Forum</u> <u>(Woodhouse, West Finchley, Finchley Church End, Garden Suburb, Golders Green, Childs Hill and East Finchley Wards)</u></p>	<p>Residents Forums provide an opportunity for any resident to raise local matters. Items and questions 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.</p> <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 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>A Chairman and Vice-Chairman of each appointed by the Council.</p>

<p><u>Local Strategic Partnership (Barnet Partnership Board)</u></p>	<p>(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.</p> <p>(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 Decision making structure or through one of the other members of the Board (for example if policing resources are involved). Note; Provisions relating to the Health and Well Being Board are slightly different and reflect Government Regulations on their remit and legal status. Terms of reference are set out in Responsibility for Functions.</p> <p>(c) The Council 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.</p> <p>(d) The Council will ensure that the Barnet Partnership Board develops clear and transparent lines of accountability and responsibility between its members.</p> <p>(e) The Council 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 Sustainable Community Strategy priorities and objectives.</p>	<p>Leader of the Council</p> <p>Other Council representatives to be appointed by Annual Council</p> <p>Senior representatives from:</p> <p>Met Police</p> <p>Middlesex University</p> <p>Barnet Clinical Commissioning Group</p> <p>Community Barnet</p> <p>Brent Cross Shopping Centre</p> <p>Barnet and Southgate College</p> <p>Job Centre Plus</p>
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	<p>(f) The Council 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.</p> <p>(g) The Council will ensure that appropriate arrangements are in place to enable appropriate review of the Barnet Partnership Board, thematic Boards, Partnerships and sub-Partnerships and relevant partner associations in accordance with statutory provision.</p>	
<p><u>Children's Trust Board</u></p>	<p>The Children's Trust is the sum total of co-operation arrangements and partnerships between organisations with a role in improving outcomes for children and young people. The Children's Trust is not a separate organisation. Each partner within the Children's Trust retains its own functions and responsibilities within the wider partnership framework.</p> <p>Section 10 of the Children Act 2004 places a duty on Local Authorities and other specific agencies to co-operate and improve the well being of children in relation to the five every child matters outcomes:-</p> <ul style="list-style-type: none"> • Be healthy • Stay safe • Enjoy and achieve • Make a positive contribution • Achieve economic well-being <p>The Children's Trust Board (CTB) provides inter-agency governance to ensure that partners in Barnet are working effectively together to improve the well being of children and young people.</p> <p>The Children's Trust Board is an essential channel to ensure that a shared set of better outcomes for children and</p>	<p>The Board will be chaired by the Lead member for Children's Services as appointed by the Council.</p> <p>.Members are able to delegate a deputy of suitable authority if they are unable to attend, by agreement with the chairman.</p> <p>Current partners are:</p> <ul style="list-style-type: none"> • LB Barnet • Barnet Clinical Commissioning Group • CommUnity Barnet • Barnet and Southgate College • Metropolitan Police • Primary, Secondary and Special Schools

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	<p>families are delivered by a range of partners. It is leading the development of a Community Budget to support families with complex needs, through the expansion of the Intensive Family Focus Programme to cover up to 100 families. Partners are being asked to invest in the scheme in proportion to the proven cost savings through effective intervention.</p> <p>The Children's Trust Board is responsible for the following:</p> <ul style="list-style-type: none"> • To develop and promote a local vision – set out in the Children and Young People Plan (CYPP) – to drive improved outcomes for local children, young people and their families • To serve as the strategic forum where agreement can be brokered and agreed. This includes providing a strategic framework within which the partners may commission services in a coordinated way using either joint or aligned budgets • To serve as the strategic interface for Children's Services with the LSP/ Barnet Partnership Board, neighbouring borough services and organisations and with national bodies and government • To develop and carry out ongoing review of a strategic three to five year vision • To oversee development, delivery and reviewing of the CYPP • To monitor progress, including via a report produced on the extent to which the Children's Trust partners act in accordance with the CYPP and a report from the Barnet Safeguarding Children Board 	
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<p><u>Safer Communities Partnership Board</u></p>	<p>The Safer Communities Partnership Board (SCPB) is the inter-agency mechanism in Barnet to reduce crime and anti-social behaviour and reoffending and promote social cohesion. It acts as the Crime and Disorder Reduction Partnership as defined (and required) by the 1998 Crime and Disorder Act and subsequent amendments including the 2006 Police and Justice Act and the 2009 Policing and Crime Act. The SCPB operates within the constitutional requirements of Barnet Council, the Metropolitan Police and other partner agencies, who ensure that the Board's approaches to policy formulation and resource allocation are consistent with those of the agencies concerned. It is a thematic subgroup of the Barnet Partnership Board which has overall strategic responsibility and has delegated to the SCPB the responsibility for delivering the Strong Safe Communities for Everyone theme of the Sustainable Community Strategy.</p> <p>It is taking forward one of the objectives in the strategy to develop an Integrated Offender Management system that brings together the different agencies involved in managing the punishment and rehabilitation of offenders in a much more efficient and joined up way, reducing the risks of reoffending and ensuring far more offenders complete their drug rehabilitation successfully.</p> <p>Barnet Safer Communities Partnership is an unincorporated body and therefore it does not have a legal personality. Its members work collectively within their own individual legal frameworks.</p>	<p>Meetings will be quarterly and a quorum will comprise four members provided this consists of:</p> <p>The Chairman or Vice Chairman</p> <p>At least one representative each of the Council and the Metropolitan Police.</p> <p>Other current partners are:</p> <ul style="list-style-type: none"> • CommUnity Barnet • Children's Safeguarding Board • London Probation Service • Victim Support, North London Division • Middlesex University • North London Magistrates' Court • London Fire Brigade • MOPAC- Mayor's Office for Policing And Crime • Barnet Community Safety and Engagement Group • Job Centre Plus • Barnet Clinical Commissioning Group <p>The Chairman will be an elected Local Authority member to reflect the Council's role in providing community leadership in this area.</p> <p>The Vice Chairman will be from the Metropolitan Police. These chairing arrangements will be reviewed and agreed at the first meeting of the Board in each new</p>
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		<p>municipal year.</p> <p>Members are able to delegate a deputy of suitable authority if they are unable to attend.</p>
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PART 4 Section 1 – The Council Procedure Rules

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 Leader of the Council for the ensuing four year period;
- (e) Receive a report from the Leader on the appointment of the Deputy Leader
- (f) 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;
- (g) Appointing the Chairman and membership of Committees, and other regulatory bodies and approving their respective terms of reference;
- (h) Agreeing the Scheme of Delegation or such part of it as the Constitution determines it is for Council to agree;
- (i) Appointing representatives to Outside Bodies unless the appointment has been delegated by the Council;
- (j) Agree the Council Calendar of meetings including for ordinary meetings of the Council;
- (k) 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 - Statutory Council Business (60 minutes)

- 7 Petitions for Debate (20 minutes). A petition organiser (up to 5 minutes) and Members responding (up to 15 minutes)
8. Reports from the Leader
9. Reports from Council Committees
- 10 Reports of Officers
11. Questions to Council Representatives on Outside Bodies

Part 3 - Question Time (30 minutes or until 8.15 p.m. whichever is longer)

12. Questions to the Leader (and Committee Chairmen if he/she has delegated)

Break (15 mins)

Part 4 – Business for Debate (45 minutes)

13. Motions (45 minutes)

Discussion of up to two motions: At least one motion originating from the Opposition to be debated if submitted. The Opposition is the next largest political group after the ruling administration.

The motion debated will be determined by Council if there is more than one submitted.

14. Motions for Adjournment

If time permits at the end of a meeting further motions may be debated. The selection of motions to be debated will be decided following a member moving a particular motion and the Mayor putting this to a vote by members present. Voting will be by a show of hands. If agreement is not reached in relation to the first proposed motion, further motions may be proposed until agreement on the motion to be debated is reached. The other Rules of debate in relation to motions set currently within the Constitution will apply to Motions for Adjournment. The process can be repeated, but no motions shall be transacted after 10pm. At 10pm without further debate, the Mayor shall immediately put to the vote the motion under debate and end the meeting.

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 2 (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 Any procedural issues or challenges to the conduct of the meeting that arise during the course of a meeting shall be determined by the Mayor (or other person presiding at the meeting)
- 5.5 The ruling of the Mayor or person presiding at the meeting concerning the interpretation or application of these procedure rules shall not be challenged at any meeting of the Council.

6. VARIATION

The following order of business may not be changed:

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

The order of any other business may be varied:

- 6.2 By the Mayor at his or her discretion either at or before the meeting; or
- 6.3 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.

7. SUSPENSION OF PROCEDURE RULES

The Council at any of its meetings may suspend any procedure rule provided that:

- 7.1 Either due notice has been given, or Council agrees that it is a case of urgency, and
- 7.2 The Business Item to suspend a procedure rule 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

8. VALIDITY OF BUSINESS ITEMS, MOTIONS, AMENDMENTS AND QUESTIONS

- 8.1 Every Business Item, motion, 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.
- 8.2 If the Head of Governance has any doubts about any Business Item, motion, amendment or question for the agenda for reasons of propriety, he or she may refer it to the Mayor.
- 8.3 If the Mayor considers the Business Item, motion, 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.

9. GENERAL PROVISIONS FOR BUSINESS ITEMS AND AMENDMENTS

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

- 9.1 refer a subject of debate to a committee for consideration or reconsideration;
or
- 9.2 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.
- 9.3 No member may submit more than one amendment to a particular Business Item or report on the agenda.
- 9.4 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 procedure rule does not apply to Business Items or amendments where notice has been given in accordance with these procedure rules.

10. ALTERATIONS TO BUSINESS ITEMS OR AMENDMENTS

- 10.1 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.
- 10.2 Amendments to items on the agenda will be e-mailed to Members and hard copies placed in the Group Rooms by midday of the day of the meeting.
- 10.3 After the deadline referred to at 10.1 above, a Member may only move an amendment to a Business Item in their name orally from the floor.

11. WITHDRAWAL OF BUSINESS ITEMS AND AMENDMENTS

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

12. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

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

- 12.1 appoint a Chairman of the meeting;
- 12.2 question the accuracy of the minutes;
- 12.3 move that an item of business in the summons takes precedence;
- 12.4 appoint a committee (including its members, a Chairman and Vice-Chairman and members having related specified duties) Receive reports or adoption of recommendations of committees and officers and any resolutions following on from them;
- 12.5 agree to hear oral representations;
- 12.6 give leave to withdraw a Motion or Business Item;
- 12.7 extend the time limit for speeches;
- 12.8 move that "the question be now put" (to the vote);
- 12.9 move that "the debate be now adjourned";
- 12.10 move that "the Council do now adjourn";
- 12.11 exclude or to re-admit the press and public under section 100A(4) of the Local Government Act 1972;
- 12.12 move that a member be not further heard or exclude them from the meeting;
- 12.13 deal in public with a staff matter;
- 12.14 give consent of the Council where consent is required by these procedure rules;
- 12.15 grant urgent action powers.

13. MOTIONS WHICH MAY BE MOVED DURING DEBATE AND CLOSURE MOTIONS

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

- 13.1 To withdraw or amend the Business Item;
- 13.2 Motion moved by the Mayor or another member that a member:
 - (a) "be not further heard";
 - (b) "must leave the meeting";
- 13.3 Motion to exclude the press and public
- 13.4 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.

- 13.5 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 motion is put to the vote.

14 DIVISION AND VOTING

14.1 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 committee report, the Head of Governance shall arrange for a bell to be rung.

15. VOTING

- 15.1 All motions and amendments shall be determined by a show of hands except where otherwise provided by law or in these procedure rules. 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. In the event of an equality of voting the Mayor shall have the right to exercise a casting vote, 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.
- 15.2 Members must be seated in the Chamber when voting and while the vote is being recorded.
- 15.3 In cases where a vote is taken, the minutes of the meeting should record the number of votes for and against the matter together with the number of abstentions.

16 VOTE TO BE RECORDED

- 16.1 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.

17 DIVISION

- 17.1 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.

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

18. 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.

19. QUESTION TIME

- 19.1 In part 2 of the meeting the Leader of the Council will answer questions from any member of the Council. The Leader may delegate the responsibility for answering to any Chairman of a relevant committee.
- 19.2 Questions will be put to the Leader 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.
- 19.3 Any Member wishing to ask a question must deliver by e-mail, to be received by the Head of Governance by 10.30am ten clear working days before the day of the meeting.
- 19.4 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.
- 19.5 The Leader 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.
- 19.6 All questions must relate to the Council's powers or duties or matters that affect the borough or its residents.
- 19.7 Every question shall be put and answered without discussion.
- 19.8 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 Leader or appropriate Committee Chairman. In the absence of the appropriate Chairman an oral elaboration may be allowed from The relevant Vice-Chairman.
- 19.9 One supplementary question and answer will be allowed on the same subject from the same members.
- 19.10 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 PARTS 2, AND 4 OF THE MEETING

20. Rules of Debate

- 20.1 The rules of debate at the meeting are as follows:
- 20.2 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.
- 20.3 For reports of Committees (including Overview and Scrutiny Committees, the Chairman of the relevant committee, or the Vice-Chairman in their absence, 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.
- 20.4 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.
- 20.5 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.
- 20.6 The Mayor will then put the item to the vote.

21. Time For Debate

- 21.1 The time allowed will be set out in the timetable. Each of the first three speakers under Rule 20.2 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.
- 21.2 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 motion from the Mayor need not be seconded, and will be immediately put to the vote without debate.
- 21.3 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.

22.1. Motions

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

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

23. Members Motions

23.1 Any Member may put a Motion on the agenda for an ordinary meeting of the Council, except the meeting that deals with the Budget and Council Tax. The Business Item must be delivered by e-mail, and received by the Head of Governance by 10.30am at least six clear working days before the day of the meeting. Any Business Item delivered after 10:30am will be recorded as received on the next working day.

23.2 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.

23.3 The Head of Governance shall set out in the summons for the meeting all Motions in order of receipt.

23.4 Once the Motion is on the agenda, any Member may move the Motion at the meeting. If the Motion is not moved it shall be treated as withdrawn, unless the Council agrees to postpone it.

23.5 If the Member's Motion is not dealt with by the end of the meeting, it will be referred to the appropriate Council Committee or sub-Committee for consideration and any necessary action. (However, if the proposer has specifically asked in his or her notice for the Motion to be voted on at that Council meeting it will be voted on without discussion).

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

RULES THAT APPLY TO PART 2 OF THE MEETING

24. Questions on Committee reports

A member may ask the 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 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.

25. Questions to Council representatives on Outside Bodies

- 25.1 At an ordinary meeting, a member, who has given 10 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.
- 25.2 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.
- 25.3 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.
- 25.4 No discussion shall be permitted about any question or the reply to it.
- 25.5 Questions and answers will be recorded.

26. Procedure for Policy and Resources budget report

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

27 Public Questions to the Leader of the Council

27.1 Members of the public are permitted to submit written questions to the Leader in accordance with the following provisions:

- Any question must be delivered by e-mail, to be received by the Head of Governance by 10.30am ten clear working days before the day of the meeting. Any questions submitted after that time will not be considered.
- The question should not relate to a matter previously considered by a committee.
- The question should not relate to a matter that is within the remit of a committee, or be a matter best addressed by a committee. If this is the case, then the question should be directed to the appropriate committee.
- The question must not be in substance a question that has already been considered by the Leader in the preceding 6 months.

Every question will be answered in writing. The Leader may decline to answer a question. Any questions not answered will be directed to the next relevant meeting of the themed committee.

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Appendix C

PART 4, SECTION 2- Meeting Procedure Rules

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 Committee	10	10 (reflecting the political structure of the Council.)	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
Area 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 each ward)	3
Licensing	10	Not applicable	3

Committee			
Constitution, Ethics and Probity Committee	10	6 (2 for each political group)	3
Group Leaders Panel	5	3	3
Urgency Committee	3	3	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
Performance and Contract Management, Children, Education, Libraries and Safeguarding, Adults and safeguarding, Environment, Assets, Regeneration and growth, Housing, Community Leadership and Health Overview and Scrutiny Committees	10	6 (2 for each political group)	3
Policy and Resources	12	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	12	3 (1 for each Member)	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 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 or their representative 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 or Sub-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 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.
- 4.3 Any procedural issues or challenges to the conduct of the meeting that arise during the course of a meeting shall be determined by the person presiding at the meeting.
- 4.4 The Chairman shall have the power to invite any persons or bodies with a particular expertise on a given agenda item to give evidence to the Committee and answer questions. This power is in addition to the Public Participation Rules elsewhere in the Constitution.

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 rule 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 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 they reserve 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:
 - 12.1.1 If a matter is outside the powers of the Committee or Sub-Committee, it must be referred to the parent body
 - 12.1.2 The Chairman of an Area Sub-Committee may refer a matter up to the parent body, together with the Sub-Committee's recommendations
 - 12.1.3 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 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:-

12.2.1 a Committee has made recommendations on a matter within its terms of reference but outside its delegated powers; or

12.2.2 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:-

13.1.1 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 12.1(2), 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 pm and any business transacted after that time shall be null and void. At 10 pm 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 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 pm. This will be recorded in the Committee's / Sub-Committee's decisions.

14.3 Residents Forums will meet at 6.30 pm and will conclude their business by 8.30 pm at the latest, followed by the Area sub-Committee on the same night and same venue at 7 pm 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.
- 15.2 In cases where a vote is taken, the minutes of the meeting should record the number of votes for and against the matter together with the number of abstentions.
- 15.3 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.

16. Vote to be recorded

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

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Financial Regulations

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- 2 Status of Financial Regulations
- 3 Responsibilities
- 4 Financial Management
 - 4.1 Budget Strategy
 - 4.2 Medium Term Financial Strategy
 - 4.3 Annual Budget Setting
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 - 5.1 Accounting
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 - 5.11 Ordering of Supplies, Works and Services
 - 5.12 Salaries, Pensions and Allowances
 - 5.13 Amenity and Unofficial Funds

The Financial Regulations should be read in conjunction with the Budget and Policy Framework [and Procedure Rules](#):-

1 Introduction

- 1.1 The Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts. These aspects are set out in section 4: Financial Management.
- 1.2 The Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised. These aspects are set out in section 5: Financial Administration.

2 Status of Financial Regulations

- 2.1 Financial regulations apply to every member and officer of the authority and anyone acting on its behalf. All members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 2.2 The responsibilities of the Chief Finance Officer are discharged by the Chief Operating Officer ~~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.
- 2.3 The Scheme for Financing Schools governs School Governors, Headteachers and school staff of Maintained schools with delegated budgets. In these cases the Financial Regulations do not apply.
- 2.4 Where applicable consultants or agencies acting for the Council will be bound by these procedures and it should be a condition of their employment or engagement that they do so.
- 2.5 This should be used in conjunction with other points of the constitution, legal requirements and other codes of practice.
- 2.6 Chief Officers are responsible for ensuring that all staff in their departments are made aware of the existence and content of the authority's Financial Regulations and other internal regulatory documents, and that they comply with them. They must also ensure that either hard or electronic copies are available for reference within their departments.
- 2.7 Substantial breaches of Financial Regulations shall be reported to the Chief Finance Officer (section 151 officer) by the relevant Chief Officer and may be treated as disciplinary offences. Where the Chief Finance Officer (section 151 officer) considers it appropriate he/she will report to the next meeting of the Audit Committee any substantial breach of these Regulations that is identified.

- 2.8 These Financial Regulations shall not override any statutory provisions that apply.
- 2.9 The Chief Finance Officer (section 151 officer) shall be responsible for ensuring that the Council's continuing compliance with the Accounts and Audit Regulations 2011 and all relevant Accounting Codes of Practice and Auditing Standards.
- 2.10 These procedures shall be reviewed regularly by the Chief Finance Officer (section 151 officer) but at least every ~~3~~ three years. The Constitution, Ethics and Probity Committee approve all amendments and summaries of changes resulting from the review. Relevant financial thresholds (e.g. write-offs, petty cash payments) should additionally be reviewed against inflation on an annual basis wherever possible.
- 2.11 The Chief Finance Officer (section 151 officer) is responsible for issuing advice and guidance to underpin the Financial Regulations that members, officers and others acting on behalf of the authority are required to follow.
- 2.12 Each Chief Officer is required to maintain a scheme of financial delegation in accordance with the minimum standards as determined by the Chief Finance Officer (section 151 Officer) or Nominated Deputy, and which accords to the financial limits included within the overall scheme of delegation and contract rules.

3 Responsibilities

- 3.1 Section 151 of the Local Government Act 1972 states that each local authority "shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs".
- 3.2 The "arrangements" include the Council's Financial Regulations, Contract Procedure Rules and the Scheme of Delegation (so far as it relates to financial matters). In approving those arrangements, Members are bound by the general principles of administrative law. The Council has an appointed Chief Finance Officer (section 151 officer). In performing his/her functions as the appointed officer, he/she shall seek to ensure that the management of the Council's financial affairs accord with the arrangements approved by Council subject to his overarching statutory duties. The Chief Finance Officer (section 151 officer) owes a fiduciary duty to the public to carry out those duties effectively and these cannot be overridden by the Council.
- 3.3 The responsibilities of the Council, ~~the Executive~~ and Committees are set out in Part 3 of the constitution: Responsibility for Functions.

4 FINANCIAL MANAGEMENT

4.1 BUDGET STRATEGY

4.1.1 The Budget Strategy, approved by ~~Cabinet~~Full Council, sets out the ~~Council's Executive's~~ approach on a range of issues, including:

- the way in which corporate service priorities are considered as part of the Council's capital and revenue budget processes;
- the level of balances and reserves (having taken account of advice from the Chief Finance Officer (section 151 officer));
- the management of financial risks

The setting of fees and charges and the Council's policies for the recovery of debt, ~~which do not form part of the budget strategy~~, are separately approved by ~~the Full Council~~Policy and Resources Committee ~~Cabinet and do not form part of the Budget Strategy~~.

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

4.2 MEDIUM TERM FINANCIAL STRATEGY

4.2.1 The Chief Finance Officer (section 151 officer), in consultation with the Chairman of the Policy and Resources Committee ~~Cabinet Member with responsibility for Resources~~, will maintain a Medium Term Financial Strategy that covers a period of at least three financial years, including the current financial year.

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

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

4.2.4 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.

4.2.5 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.

4.2.6 In that the Medium Term Financial Strategy has a three 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.

4.3 ANNUAL BUDGET SETTING

4.3.1 The ~~Executive Council~~ will publish a draft budget for consultation. Arrangements for budget consultation will be determined by the ~~Executive Council~~.

4.3.2 The Chief Finance Officer (section 151 officer) will set the council tax base for tax-setting purposes before 31 January of the preceding financial year, and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer (section 151 officer) will, at the same time, notify all Council Members.

4.3.3 ~~The Executive~~ The Policy and Resources Committee will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in February, following announcement of the Final Local Government Finance Settlement.

4.3.4 ~~The Executive's Policy and Resources'~~ 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.

4.3.5 The budget and capital programme that ~~the Executive Policy and Resources~~ recommends to Council must be based on reasonable estimates of expenditure and income, and take account of:

- outturn forecasts for the current year;
- guidance from the Chief Finance Officer (section 151 officer) on the appropriate level of reserves, balances and contingencies;
- financial risks associated with proposed budget developments, reductions and ongoing projects;
- forecasts of capital receipts;

- affordability of prudential borrowing over the period of the council's financial forward plan;
 - recommendations from the external auditor on matters such as the level of reserves and provisions.
- 4.3.6 The Chief Finance Officer (section 151 officer) shall advise the ~~Cabinet Council~~ whether s/he is able to certify that the draft Budget contains robust estimates and reserves for the purpose of Section 25 of the Local Government Act 2003.
- 4.3.7 Fees and Charges
The budget recommended by ~~the Executive~~ Policy and Resources will incorporate the latest projection of income from fees and charges.
- 4.3.8 ~~Cabinet Resources Committee~~ Policy and Resources 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.
- 4.3.9 Chief Officers may approve changes to fees and charges annually where the change is broadly in line with inflation. The date for annual increases need not be 1 April.
- 4.3.10 Alternative Budget Motions
Any member proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy thereof to the Chief Finance Officer (section 151 officer) at least 5 clear days before the Council meeting, so that he/she may advise Council whether the resulting amended or alternative Budget would provide robust estimates and reserves for the purpose of Section 25 of the Local Government Act 2003.
- 4.3.11 The alternative budget motion must set out the appropriate changes to ~~Cabinet's~~ the Policy and Resources Committee's recommendations as they affect the budget for the forthcoming year and any element of the Financial Forward Plan (e.g. balances, full year effects, council tax levels). The Chief Finance Officer (section 151 officer) may also require further information to be included if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.
- 4.3.12 Any Member proposing to put an alternative budget motion to Council is responsible for ensuring it is received by the Head of Governance by the date set by the Head of Governance. It is also their responsibility to ensure they give the Chief Finance Officer (section 151 officer) sufficient time to fully validate their alternative budget proposals.
- 4.3.13 The Chief Finance Officer (section 151 officer) is responsible for validating any alternative budget motions put forward by Members. The Chief Finance Officer (section 151 officer) may require further information to be included in the proposal if he/she considers it will improve the Council's understanding of the financial implications in the forthcoming or future years.

4.4 BUDGET MANAGEMENT & MONITORING

4.4.1 Latest Approved Budget

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

4.4.2 The Chief Finance Officer (section 151 officer) is responsible for maintaining the latest approved revenue and capital budget in accordance with the scheme of revenue and capital virement as set out below.

4.4.3 Making changes to the budget

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

Approval by Performance & Contract Management is required in the following cases:
The virement affects any of the following budget types: <ul style="list-style-type: none"> -Financing charges -Rates and other taxes -Recharges -Insurance
The virements is for <u>allocation from contingency budgets</u> for amounts <u>up to over £250,000 must be approved by (as determined by the Section 151 Officer in consultation with appropriate Chief Officer)</u>
<u>Virements for allocation from contingency for amounts over £250,000 must be approved by Performance and Contract Management</u>
The virement would cause the total budget head to be exceeded in the current year or increase the commitment in future years
The virements are to be financed from savings arising from competitive tendering
Approval by relevant themed committee
The virement will transfer funds for the creation of new posts
If none of the above conditions apply, then the following approval levels apply:
Virements within a service that do not alter the <u>bottom line staffing by more than 10%</u> are approved by Service Director
Virements <u>between services (excluding contingency allocations)</u> up to a value of £50,000 must be approved by the relevant Chief Officer
Virements <u>between services (excluding contingency allocations)</u> over £50,000 and up to £250,000 must be approved by Chief Officer and Chief Finance Officer
Virements over £250,000 and up to £2,500,000 must be approved by Performance and Contract Management
<u>Virements between services (excluding contingency allocations) over £250,000 must be approved by Policy and Resources</u>

Capital Virements

Performance and Contract Management approval is required for all capital budget and funding virements and yearly profile changes (slippage or accelerated spend) between approved capital programmes i.e. as per the budget book. The report must show the proposed:

- 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 Section 151 Officer
Funding substitutions at year end in order to maximise funding are the responsibility of the Section 151 Officer.

4.4.4 Budget Monitoring

4.4.5 Chief Officers are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur they should in the first instance be returned to central contingencies unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or ~~windfall~~ other financial benefits are to be used to offset uncontrollable overspends elsewhere within the service. Where these exceptions occur, the chief officer is responsible for notifying the Chief Finance Officer that this is to occur.

4.4.6 Budget Monitoring – Revenue

4.4.6.1 Chief Officers should ensure that their revenue cost centre managers do not enter into commitments before satisfying themselves there is sufficient approved budget provision. Chief Officers have no authority to overspend revenue budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.

4.4.6.2 It is the responsibility of Chief Officers to ~~must~~ notify the Chief Finance Officer (section 151 officer) of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income have been identified.

4.4.6.3 Having notified the Chief Finance Officer (section 151 officer) of a forecast revenue budget overspend, the Chief Officer must submit proposals to the Chief Finance Officer (section 151 officer) for offsetting the forecast overspend, together with an assessment of the impact these corrective actions will have on service delivery and performance targets. Approval to these budget variations will be in line with the scheme of virement.

4.4.6.4 When notifying the Chief Finance Officer (~~s~~Section 151 ~~e~~Officer) of such a situation, Chief Officers must advise if the problem relates solely to the current financial year or needs to be addressed within the financial forward plan as well.

4.4.6.5 Chief Officers are required to notify the Chief Finance Officer (section 151 officer) of all revenue underspends, over-recovery of income or ~~windfall~~ other financial benefits arising within their revenue budgets. Where these occur they should in the first instance be returned to central contingencies unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable

overspends elsewhere within the service. Where these exceptions occur, the Chief Officer is responsible for notifying the Chief Finance Officer (section 151 officer) that this is to occur.

4.4.7 Budget Monitoring – Capital

4.4.7.1 Forecast overspends on approved capital projects must be communicated to the Chief Finance Officer immediately. Having notified the Chief Finance Officer (section 151 officer), the Director or Head of Service must submit options to the Chief Finance Officer (section 151 officer) for offsetting the forecast overspend (e.g. by reducing the project specification, or budget for other projects) and/or identifying additional funding.

4.4.7.2 Due to the uncertainty around the generation and timing of capital receipts, and the impact that delays could have on the level of prudential borrowing, capital project managers must obtain the prior approval of the Chief Finance Officer (section 151 officer) before entering into any individual capital commitment on an approved capital project over £1m.

4.4.8 Central Contingency

The Chief Finance Officer (section 151 officer) will determine which budget developments are to be held within the central contingency.

4.4.9 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer (section 151 officer), in consultation with the Chairman of the Performance and Contract Management Committee ~~Cabinet Member for Resources~~, following the receipt from a Chief Officer of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect, the contingency allocation must be approved by the Performance and Contract Management Committee ~~Cabinet Resources Committee~~.

4.4.10 Allocations from the central contingency for unplanned expenditure, including proposals to utilise underspends previously generated within the service and returned to central contingency, will be approved by the Chief Finance Officer in consultation with the Chairman of Performance and Contract Management ~~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.

4.4.11 Allocations for unplanned expenditure over £250,000 must be approved by Performance and Contract Management Committee. ~~Cabinet Resources Committee~~.

4.4.12 Budget Monitoring – reporting

4.4.13 The Chief Finance Officer (section 151 officer) will report in detail to Performance and Contract Management ~~Cabinet Resources Committee~~ at least

four times a year, at the end of each quarter, on the revenue and capital budgets and wider financial standing.

4.4.14 Reports on the revenue budget will normally include:

- a revised forecast outturn including details as part of which, Chief Officers will inform ~~Cabinet Resources Committee~~ Performance and Contract Management:
 - i) of those cost centres for which they are responsible that are projecting net overspends or underspends either over £100,000 or over £50,000 where the cost centre's gross budget is less than £1m; and
 - ii) of the actions proposed to ensure that these overspends or underspends are not realised.
- advice from the Chief Finance Officer (section 151 officer) on whether action is required to address any diminution in reserves and, if necessary, proposals and/or options for action that needs to be taken.

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

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

4.4.16 Authorisation of Non-Budgeted Expenditure

In cases of urgency or emergency, the Chief Finance Officer (section 151 officer) may approve revenue or capital expenditure in excess of the latest approved budget.

4.4.17 The Chief Finance Officer (section 151 officer) may approve revenue or capital expenditure not provided for within the latest approved budget if satisfied that:

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

In all circumstances, the expenditure must be consistent with the Corporate Plan and management agreements ~~key priority plans~~ and should be reported to the next Performance and Contract Management~~Cabinet~~ meeting.

4.4.18 Chief Officers, in consultation with the Chief Finance Officer (section 151 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.

4.4.19 Chief Officers must provide the Chief Finance Officer (section 151 officer) with details of all bids for external funding. Bids will follow the requirements of the Council's investment appraisal process. In particular, the following information must be provided:-

- how the bid supports achievement of Corporate Plan targets;
- whether the bid is for capital and/or revenue funding;
- revenue and capital matched funding contributions required from the Council, and how these will be identified;
- revenue and capital matched funding contributions required from other organisations and individuals, how these amounts will be secured, and the risks associated with them;
- an 'exit strategy', which sets out how budgets will be adjusted after the grant expires;
- where the bid is for revenue funding:-
 - whether this is to support existing levels of activity or enhanced / new activities;
 - proposals for reducing the activity OR incorporating it in the base budget once the external funding is exhausted;
- where the bid is for capital funding :-
 - whether an asset will be created, and if so, how this fits in with the Council's Asset Management Strategy;
 - how the ongoing cost of maintaining the asset will be funded;
 - whether the asset can / will be disposed of at a later date.

4.4.20 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed, unless approval has been given by the Chief Finance Officer (section 151 officer). Decisions to proceed ahead of confirming external funding will be taken after assessing all relevant risks. The Chief Finance Officer (section 151 officer) has the right to refer the decision to the ~~Cabinet Resources Committee or Cabinet Member for Resources.~~ Policy and Resources.

4.4.21 Chief Officers must advise the Chief Finance Officer (section 151 officer) of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and should in the first instance be returned to the central contingency unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where the amount notified is less than the budget, the Director or Head of Service must notify the Chief Finance Officer (section 151 officer) of options for containing any potential overspend.

- 4.4.22 Where external funding is applied for, it is the responsibility of the Chief Officer to ensure that the monies are received from the paying body and, wherever possible, received ahead of the planned expenditure being incurred by the Council.
- 4.4.23 Chief Officers must ensure that all conditions associated with external funding are met and that information and evidence required to complete grant and subsidy claims are provided on time.
- 4.4.24 Chief Officers are responsible for ensuring that they comply with all requirements for the audit of external funding where applicable.
- 4.4.25 Full year Effects
In preparing any estimates of expenditure and income, **Corporate** Directors and Heads of Service must give proper consideration to full year effects.
- 4.4.26 Annual Governance Statement
Chief Officers must support the work on corporate risk management led by the Monitoring Officer, contributing to the production of the Annual Governance Statement that has to be published alongside the Statement of Accounts. Details of this are set out in the Code of Corporate Governance.
- 4.4.27 Partnership Working
Before entering into a partnership with another organisation that involves pooling some of the Council's revenue and/or capital budgets, the Chief Officer must ensure that adequate financial controls are in place. A financial risk assessment must also be prepared and monitored over time.
- 4.4.28 General Requirements
Chief Officers must consult the Chief Finance Officer (section 151 officer) at an early stage on any current or future matter or decision that has financial implications that are not incorporated in the Financial Forward Plan or could impact on the Medium Term Financial Strategy.

4.5 CLOSING OF ACCOUNTS & STATEMENT OF ACCOUNTS

- 4.5.1 The Chief Finance Officer (section 151 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.
- 4.5.2 Chief Officers are responsible for ensuring that they and their staff adhere to the timetable and requirements set out by the Chief Finance Officer (section 151 officer) for the closing of accounts, and provide any information and evidence required in relation to this.
- 4.5.3 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).

- 4.5.4 Chief Officers must provide on time any information and evidence the Chief Finance Officer requires to close the accounts and complete all grant and subsidy claims.
- 4.5.5 In closing the accounts, the Chief Finance Officer (section 151 officer) may amend the originally approved funding of revenue and capital services and projects if this is to the Council's financial benefit.
- 4.5.6 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 whether the Council provides Value for Money. This will be reported each year to the Audit Committee, together with an appropriate action plan.

4.6 TREASURY MANAGEMENT FRAMEWORK

- 4.6.1 The Council adopts the key recommendations contained in "The Prudential Code for Capital Finance in Local Authorities – fully revised second edition (CIPFA, 2009), "Treasury Management in the Public Services: Code of Practice and cross sectoral guidance notes (CIPFA, 2009) and any subsequent recommended good practice by CIPFA.
- 4.6.2 Adherence to Prudential Code
The Council adopts the key recommendations of CIPFA's Treasury Management in the Public Services Code of Practice, as described in Section 4 of that code.
- 4.6.3 ~~Cabinet Resources Committee~~ Policy and Resources will create and maintain a Treasury Management Policy Statement, stating the policies and objectives of its treasury management activities.
- 4.6.4 The Chief Finance Officer (section 151 officer) will create and maintain suitable Treasury Management Practices, setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
- 4.6.5 ~~Cabinet Resources Committee~~ The Performance and Contract Management 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 Treasury Management Practices. These reports will incorporate the prudential borrowing limits and performance indicators.
- 4.6.6 The Chief Finance Officer (section 151 officer) has the delegated authority to undertake long term borrowing on behalf of the Authority and will issue a Delegated Powers Report immediately after this power is exercised to inform Members.
- 4.6.7 The Council delegates responsibility for the implementation and the monitoring of its treasury management policies and practices to ~~the Executive~~ Performance and Contract Management and the updating of the Treasury Management Practices, and for the execution and administration of treasury management

decisions to the Chief Finance Officer (section 151 officer), who will act in accordance with the organisation's policy statement and Treasury Management Practices and CIPFA's Standard of Professional Practices on Treasury Management.

4.7 PENSION FUND MANAGEMENT

The Chief Finance Officer (section 151 officer) ~~through the Pensions Manager~~ is responsible for, or responsible for delegating authority for:

- approving early payment of deferred benefits under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations
- exercising discretion on compassionate grounds not to actuarially reduce deferred benefits paid early under regulation 30 of the Benefits Regulations or similar provisions in previous Regulations;
- exercising the power to accept late applications (made more than 30 days after return to work or, if does not return to work, 30 days after the date of leaving) from a member who wishes to pay optional contributions for a period of absence (Regulation 22 of the Administration Regulations);
- informing a member, who is entitled to a pension or retirement grant under two or more provisions, which provision shall apply (Regulation 34 of the 1997 Regulations);
- 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

5 FINANCIAL ADMINISTRATION

5.1 ACCOUNTING

- 5.1.1 All accounting arrangements across the council shall be in a manner approved by the Section 151 Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and [national guidance](#).
- 5.1.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 5.1.3 All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer (section 151 officer).

5.2 INTERNAL AUDIT

- 5.2.1 Under the Accounts and Audit Regulations 2011 the Council has a statutory obligation to have an adequate and effective system of internal audit. The Chief Internal Auditor has the delegated authority for providing and maintaining this service.
- 5.2.2 The Chief Internal Auditor is responsible for providing an internal audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS). He / she is also responsible for providing an opinion, in support of the Annual Governance Statement, on how the Council's risk management processes identify, evaluate, monitor and report that controls are operating effectively within the Council. The Chief Internal Auditor helps the Chief Finance Officer discharge his/her responsibilities under section 151. Irrespective of the organisational position of internal audit, this officer should have the right to report on matters concerning internal audit and internal control directly to the Chief Executive and the Audit Committee.
- 5.2.3 Internal Audit is an assurance function that provides 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.' PSIAS
- 5.2.4 Management are responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal Audit plays a vital part in advising the organisation that these arrangements are in place and operating properly. The annual internal audit opinion, which informs the Annual Governance Statement, both emphasises and reflects the importance of this aspect of internal audit work. Management's response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisation's objectives.
- 5.2.5 Internal Audit has unrestricted access to all information (including records, computer files, 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; and
- the operation of the Council's Governance arrangements.

5.2.6 Independence

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

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

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

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

5.2.10 Responsibility & Authority

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

5.2.11 The purpose, scope, authority and responsibility of the internal auditing service is defined in a formal charter. The charter makes clear the independence of the internal auditing service and emphasises that it must not be restricted when carrying out its responsibilities.

5.2.12 Chief Officers shall have regard to the principles of risk management, and to the Council's risk management policy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the council's arrangements for risk management.

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

5.2.14 Ethical Governance

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

5.3 CORPORATE ANTI-FRAUD TEAM (CAFT)

5.3.1 Under Section 151 of the Local Government Act 1972 the Council has a statutory obligation to ensure the protection of public funds and to have an effective system of prevention and detection of fraud and corruption. The ~~Operational~~ Assurance Assistant Director has the delegated authority for providing and maintaining this service.

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

5.3.3 Objective & Scope

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

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

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

- review the reliability and integrity of financial and operating information and the means used to identify, measure, classify, and report such information;
- ensure there are appropriate 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.

5.3.6 Independence

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

5.3.7 Responsibility & Authority

The primary responsibility for the awareness, prevention, detection and deterrence of fraud, corruption, bribery or money laundering activity lies with the Chief Officers. This responsibility includes ensuring that staff and partners are aware of both the implications of fraud and money laundering and the risks of fraud and money laundering across their service area. The primary responsibility for the investigation of any suspected fraud, corruption, bribery or money laundering activity found in a service area lies with the CAFT. All details must be immediately forwarded to the CAFT, to preserve the chain of evidence linked to such investigations within the law.

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

5.3.9 The ~~Assistant Director of Operational Assurance~~ Assistant Director will nominate an officer to undertake the duties of the Council's Money Laundering Reporting Officer as detailed within the Council's Anti Money Laundering Policy Statement and procedure.

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

- 5.3.11 The CAFT Counter Fraud Manager – Benefit Fraud is the officer designated by the Secretary of State under the provisions of the Social Security & Administration Act 2001 to act as the Authorised Officer in the obtaining of data prescribed within the Act which may otherwise be protected, in connection with the prevention and/or detection of a crime.
- 5.3.12 The ~~Assistant Director of Operational~~ Assurance Assistant Director is designated as the London Borough of Barnet’s ‘Senior Appropriate Officer’ for the authorisation of production orders, restraint orders, customer information orders and account monitoring orders as described within the Proceeds of Crime Act 2000.
- 5.3.13 The ~~Assistant Director of Operational~~ Assurance Assistant Director and/or the CAFT Counter Fraud Managers are the London Borough of Barnet’s responsible officers for the authorisation of arrest and prosecution of offenders including deciding on any appropriate sanction action available within the law. Those officers are responsible for ensuring that all CAFT investigations are conducted in accordance with the Criminal Procedures & Investigations Act 1996 (CPIA) the Police & Criminal Evidence Act 1984 (PACE) and the Human Rights Act 2000.
- 5.3.14 The Council’s Senior Responsible Officer in relation to the Regulation of Investigatory Powers Act 2000 (RIPA) has been designated as the Monitoring Officer. The 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.
- 5.3.15 The Chief Finance Officer (section 151 officer), or other authorised representative such as the Monitoring Officer. ~~The the Assistant Director of Operational~~ Assurance Assistant Director, ~~The the~~ Chief Internal Auditor and all CAFT Investigation Officers shall have authority to:
- Enter or visit any land, premises, offices or establishments of the Council; and carry out any necessary searches of the aforementioned.
 - have unrestricted access to, 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).

5.4 RISK MANAGEMENT

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

5.5 BANKING ARRANGEMENTS

5.5.1 The Chief Finance Officer (section 151 officer) must approve all banking and card acquiring arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.

5.5.2 The Chief Finance Officer (section 151 officer) will maintain a register of all bank and card acquiring contracts.

5.5.3 Cheques above certain financial limits set by the Chief Finance Officer (section 151 officer) shall be manually countersigned by those designated officers authorised to do so by the Chief Finance Officer (section 151 officer).

5.5.4 The Chief Finance Officer (section 151 officer) will be responsible for ensuring that the Council's banking arrangements are reviewed on a regular basis and that the banking contract is reviewed every three years.

5.5.5 Chief Officers are responsible for ensuring that the any staff in their areas that use the Procurement Cards adhere to the requirements of the LBB Purchasing Card (PCard) Guide and Terms and Conditions.

5.6 ASSETS

5.6.1 Chief Officers are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.

5.6.2 Maximum limits for cash holdings shall be set by the Chief Finance Officer (section 151 officer), which may not be exceeded without prior authority. Areas where cash is counted and held must be secure and with access restricted only to authorised staff.

5.6.3 Chief Officers are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals in excess of £6,000 (or a higher figure that is consistent with capital accounting regulations) are to be notified to the Chief Finance Officer (section 151 officer).

5.6.4 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.

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

5.7 IMPREST ACCOUNTS

5.7.1 The Chief Finance Officer (section 151 officer) must authorise all imprest accounts.

5.7.2 The imprest account holder must:

- provide a certificate showing the state of the account at the end of the financial year and additionally when requested by the Chief Finance Officer (section 151 officer);
- only reimburse expenditure up to a limit set by the Chief Finance Officer (section 151 officer);
- obtain receipts for all payments made, which 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 (section 151 officer) with a full account for the advance when ceasing to be the imprest account holder.

5.8 INCOME

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

5.8.2 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 (section 151 officer).

5.8.3 Officers responsible for controlled stationery must keep it secure. Methods of payment must be agreed by the Chief Finance Officer (section 151 officer).

5.8.4 The Chief Finance Officer (section 151 officer), or officer nominated by the Chief Finance Officer (section 151 officer), may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Debt Management Policy.

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

5.8.6 Monies received must be banked on the day of receipt wherever possible, and

not later than the next working day. All amounts paid in must be referenced to enable subsequent identification of the accounts to which they relate. All cheques, postal orders etc. shall be crossed with the crossing stamp provided.

- 5.8.7 No deductions may be made from monies received.
- 5.8.8 Heads of Service must notify the Chief Finance Officer (section 151 officer) of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.
- 5.8.9 Invoicing & Debt Recovery
Officers responsible for raising invoices must ensure that VAT has been properly accounted for.
- 5.8.10 The Council's Debt Management Policy sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all services within the London Borough of Barnet.

5.9 INSURANCE

- 5.9.1 The Chief Finance Officer (section 151 officer) is responsible for maintaining the Insurance Strategy arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered.
- 5.9.2 Chief Officers must notify the Chief Finance Officer (section 151 officer) immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 5.9.3 Any incident which could give rise to an insurance claim must be promptly notified to the Chief Finance Officer (section 151 officer) by the relevant officer, who shall also inform the Police if appropriate.
- 5.9.4 The Chief Finance Officer (section 151 officer) will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.
- 5.9.5 Officers must consult the Chief Finance Officer (section 151 officer) and Monitoring Officer in all cases where the Council is requested to give an indemnity.
- 5.9.6 Officers in receipt of a motor vehicle allowance must produce registration documents, insurance policy, certificate of insurance and test certificate if required by the Chief Finance Officer (section 151 officer). Insurance policies must be comprehensive and cover use on official business.
- 5.9.7 Schools
Where funds for insurance are delegated to any school, the Council may require the school to demonstrate that cover relevant to the Council's insurable interests, under a policy arranged by the Governing Body, is at least as good as the

relevant minimum cover arranged by the Council. If the Council makes such arrangements, either paid for from central funds or from contributions from schools' delegated budgets, the Council will have regard to the actual risks, which might reasonably be expected to arise at the school in question in operating this requirement rather than applying an arbitrary minimum level of cover for all schools.

5.9.8 It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance may be funded from the school budget share.

5.9.9 The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could be charged to the school's budget share.

5.10 INVESTMENTS, BORROWING, CAPITAL FINANCING & TRUST ACCOUNTS

5.10.1 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 Policy and Resources Committee ~~cabinet meeting or by a cabinet committee~~.

5.10.2 All securities shall be held securely by the Council's bankers, the Chief Finance Officer (section 151 officer) or custodians approved at a ~~cabinet meeting or by a cabinet~~ the Policy and Resources eCommittee.

5.10.3 The Chief Finance Officer (section 151 officer) shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.

5.10.4 The Chief Finance Officer (section 151 officer) will set Prudential indicators, as outlined in the Prudential Code for Capital Finance in Local Authorities, for the forthcoming and following two financial years. The Chief Finance Officer (section 151 officer) will also provide regular monitoring reports to Performance and Contract Management ~~cabinet committee~~ and report any breaches or amendments of the code to Council.

5.10.5 The key objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plan of the local authorities are affordable, prudent, sustainable and in accordance with good professional practice – or, in exceptional cases, to demonstrate that there is a danger of not ensuring this, so that the authority can take timely remedial action.

5.10.6 The Chief Finance Officer (section 151 officer) will be the Council's registrar of all stocks and bonds. In addition this officer will maintain a register of all loans and investments made in the name of the Council.

5.10.7 The Chief Finance Officer (section 151 officer) shall ensure that all legislative amendments and changes in treasury or capital limits are approved at Policy and

Resources ~~a cabinet meeting or by a cabinet committee~~ and where necessary full Council.

5.11 ORDERING OF SUPPLIES, WORKS & SERVICES

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

revised date, whenever:-

- the invoice is dated prior to receipt of supplies, works or services and this is contrary to the agreed payment terms;
- the invoice is incorrect;
- the invoice does not reference a valid Purchase Order number.

5.11.9 When certifying an invoice for payment that was initially disputed, record the date on which the invoice was actually validated.

5.11.10 The Central Accounts Payable Team will perform a three-way match against the purchase order, goods receipt and invoice, prior to making a payment. Invoices from trusted suppliers, (as advised by the Strategic Procurement Team) will only require a two-way match. Invoices that do not pass this criteria will be returned to the service for amendment.

5.11.11 **Payments in advance** : Directors, Assistant Directors, Lead Commissioners and Heads of Service, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to the Chief Finance Officer (section 151 officer).

5.12 SALARIES, PENSIONS & ALLOWANCES

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

5.13 AMENITY & UNOFFICIAL FUNDS

5.13.1 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 (section 151 officer)) or Trust Fund monies outside the authority of the Council.

5.13.2 All accounts shall be opened by the Chief Finance Officer (section 151 officer) and their names shall include the name of the Borough and the establishment concerned.

5.13.3 Provided the Chief Finance Officer (section 151 officer) approves and is satisfied with accounting and security arrangements, separate accounts need not be opened for funds of small amounts.

5.13.4 The head of each establishment which sets up such a fund shall inform the relevant Chief Officer of its existence.

5.13.5 Responsibility for the administration of the fund shall rest with the head of the establishment and with such other member(s) of staff as that person shall decide.

- 5.13.6 Expenditure from the fund shall be at the discretion of the establishment head in conjunction with other member(s) of staff as felt necessary.
- 5.13.7 Cheques shall be signed and countersigned by the head and deputies of the establishment. All transactions above a limit set by the Chief Finance Officer (section 151 officer) shall be signed by at least two authorised officers.
- 5.13.8 Auditors shall be appointed by the head of the establishment and the fee (if any) shall be charged to the fund. Where the turnover of the fund exceeds an amount set by the Chief Finance Officer (section 151 officer), the fund must be audited by auditors approved by that officer. The Chief Finance Officer shall have the right to inspect the accounts.
- 5.13.9 At the end of each financial year the head shall submit an audited summary of the fund to the Chief Finance Officer (section 151 officer) (and Governing Body if appropriate).

Contract Procedure Rules

~~Version: Final~~

~~Dated: 27th February 2014~~

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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 Policy and 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 and Customer Services Director 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 expenditure of external funding such as grant allocation received by the Council from external sources.
- 3.2 The Contract Procedure Rules are not applicable to Non-Procurement activities as defined in Section 16.16 Definitions of these Contract Procedure Rules. Payments to Third Parties for Non Procurement activities Exempted services shall be subject to ~~a dual~~ authorisation ~~process where both~~ by 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 Asset, 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) or a Legal Advisor approved by the Monitoring Officer;
- 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 and a version approved by the Supplier is prepared for publication;
- 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 Regulation 8 of the 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 to contracts (permitted within the existing contract) submitted included in the Annual Budget and in the Annual Procurement Forward Plan, for -as approval approved by by the Policy and Resources -& Contract 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 Where a procurement will result in a framework agreement or contract refer to Table A in Appendix 1 of these Contract Procedure Rules to determine the Procurement process that should be used. If any further clarification is required reference should be made to the Central Procurement Team.
- 8.2 All tender opportunities for works or services, including call-offs from Framework Agreements, over £10,000 (except for Social Care Placements, ~~and~~ Special Educational Needs listed in 8.5 and non-procurement activities defined in 16.16) must be advertised using the central e-procurement portal ~~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 Where the procurement is carried out in accordance with 8.1 above and results in a Framework Agreement, any subsequent call-offs must be carried out in accordance with the Terms and Conditions of the Framework Agreement.

- 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.
- 8.5 For non-procurement activity that results in a contractual obligation for social care placements and special education needs (SEN) where the decision has been made on the councils behalf (such as court directed order, personal budget/statement request or an individual's specific needs) the authority to sign off to award an individual funding agreement in accordance with the decision making framework as contained with the Responsibility for Functions from paragraph 7.6:
<http://barnet.moderngov.co.uk/documents/s9818/Responsibility%20for%20Functions.pdf>

9 SINGLE TENDER ACTION

- 9.1 A single tender action or commitment is not allowed unless approved in advance by the Commercial and Customer Services Director. Refer to the Procurement Code of Practice for detailed guidance.
- 9.2 Where a competition has been undertaken, in accordance with Section 8, and only a single bid has been received, the Commercial and Customer Services Director can approve the award of a contract, subject to a value for money review being undertaken and an audit trail being available for inspection. The award of the contract cannot proceed without this authorisation.

10 INFORMATION GOVERNANCE

- 10.1 When procuring a new contract which involves the processing of significant amount of personal information 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 must be in accordance with Appendix 1 Table A and 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 Contracts or Framework Agreements entered into with respect to the provision of social care to individual service users must be sealed. Call-off placements from a framework agreement **under OJEU threshold of £172,514 ~~£173,934~~** do not require sealing and in this case need only be signed by the respective Director in accordance with the scheme of delegation.
- 12.4 Where the Monitoring Officer or delegated officer considers it desirable that a contract should be sealed other than as specified above, then such a contract must be sealed.

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 metmonitored and any reduction in performance is acted upon and recorded;
 - compliance with specification and contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered;
- 13.2 Throughout the life of the contract, contract managers must ensure the elimination of unlawful discrimination and the promotion of equality in accordance with current 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 ~~£172,514~~~~£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 Appendix 1 Table A.
- 14.2 The value referred to in Appendix 1 Table A in the column headed 'Variation or extension Acceptance' is the total value of the original contract value plus the addition of the value of any extensions and/or variations i.e. the total value of the extended or varied contract.
- 14.3 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;
- 14.4 Where the procurement results in a contract which includes a provision for an extension, any acceptance of that extension needs to be in accordance with Appendix 1 Table.
- 14.5 In the event that any of the conditions at 14.1 or 14.3 cannot be met, and the total value of the contract plus extension(s) and variations) is over £100,000, then either a waiver must be sought in accordance with Section 15 (Waivers) or a new procurement commenced.
- 14.6 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with Appendix 1, Table A.
- 14.7 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.

- 14.8 The Acceptance thresholds for contract extensions and variations are set out in Appendix 1, Table A 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 Policy and~~ 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 Policy and~~ Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant ~~Cabinet Policy and~~ 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 **"Approved Officer"** means the Director, Assistant Director, Service Lead or Lead Commissioner 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.
- ~~16.1~~
- ~~16.2~~16.3 **"Authorisation"** is the approval required to enable any Procurement to occur.
- ~~16.3~~16.4 **"Budget"** is the annually agreed budget and supporting plans and strategies for each Delivery Unit.
- ~~16.4~~16.5 **"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~~16.6 **"CPT"** means Central Procurement Team.
- ~~16.6~~ **"Approved Officer"** means the Director, Assistant Director, Service Lead or Lead Commissioner 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 **“English Law”** means all laws and regulations which set the legislative boundaries and obligations of the Council within the context of Public Sector Procurement. European Procurement Directives are incorporated into English Law.
- 16.10 **“EU”** means European Union.
- 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 11 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 **“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~~ Policy and Resources Committee for authorisation.
- ~~16.15~~ 16.17 **“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.
- ~~16.16~~ 16.18 **“Non-Procurement”** expenditure applies where the Council has to pay for a Service which it did not initiate or for payments where it is not appropriate to tender including (but not exclusively) inter-authority and inter-agency payments, subscriptions/memberships, emergency temporary accommodation for vulnerable people, assessments and recoupment.
- ~~16.17~~ 16.19 **“OJEU”** means the Official Journal of the European Union.
- ~~16.18~~ 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~~16.20 **“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~~16.21 **“Quotation”** means a priced bid for the provision of goods, a service, or supply of works.

~~16.21~~16.22 **“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~~16.23 **“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 Over £10,000 – Summary DPR	Summary DPR
B	£25,001 to £172,514 <u>£173,934</u>	Director/Assistant Director	On forward Plan or Full Officer DPR	Minimum 2 written Competitive Quotations received ⁱⁱ	Approved Officer	Summary DPR	Full DPR (maximum £172,514 <u>£173,934</u> – please refer to 14)
C	£172,514 <u>£173,934 to £499,999</u> and over	Cabinet Member <u>Relevant Thematic Committee</u> or P and R via <u>Forward Plan</u>	On Forward Plan or Theme Committee report <u>of Full-Cabinet Member-DPR</u>	Part A ⁱⁱⁱ : EU tender Part B: Minimum 3 competitive Quotations received Works: EU tender above £4,348,350	Director <u>if within budget- Officer in consultation with Chairman of relevant theme or Policy and Resources Committee</u>	If within budget and agreed savings target on forward plan <u>Officer Full DPR (Summary-DPR) otherwise-Full-DPR</u>	Cabinet Member DPR <u>Relevant Thematic Committee</u>

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 16.13 and 16.14) or Central Procurement

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The Management of Asset, Property and Land Rules

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DRAFT

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, appropriate, change use of, or dispose of Assets within its Asset Portfolio.
- 2.2 The Council may delegate responsibility to Authorised Service Providers to manage the Council's Asset portfolio on its behalf, within the boundaries set by these Rules.
- 2.3 The aims of these rules are to:
 - ensure Best Consideration is achieved on the disposal of council assets (unless a Less Than Best Transaction is approved), ~~and propriety in the spending of public money and the maximisation or disposal of Council Assets;~~
 - propriety in spending public money (such as for acquisitions)

Appendix F - Real Estate, Property and Land Rules (with amendments)

- enable the development of a balanced Asset Portfolio which is fit for purpose when applied to the delivery of Council services
 - enable the Built Environment to be maintained and developed in a manner which enhances Social Value;
 - ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant Asset Portfolio activity;
 - ensure compliance with English law and the current standards and methods of Asset Portfolio measurement and valuation and as defined within the RICS Red Book; [and](#)
 - enable Council, authorised Third Party Providers and Third Sector Services to be delivered effectively and efficiently across the Borough
- 2.4 The ~~Assets, Regeneration and Growth Committee~~ ~~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 [Strategic Asset Management Plan Strategy](#) and is delivered through the [Annual Work Plan-Asset Management Plan](#).
- 2.7 The Council may delegate responsibility to Authorised Service Providers to develop and deliver the [Strategic Asset Management Plan Strategy](#) and [Annual Work Plansset Management Plan](#) through the adoption of an Approved Management Structure.
- 2.8 The [Strategic Asset Management Plan Asset Management Strategy](#) will govern decisions on the future direction and development of the Council's Built Environment.
- 2.9 An [Annual Work Plan Asset Management Plan](#) will govern decisions on whether to:
- i. ~~Dispose of~~ [Retain](#) an Asset for purposes in accordance with Corporate Plan objectives, or;
 - ~~ii. Dispose of an asset, or;~~
 - ~~iii. ii. Lease, licence or rent an asset, or;~~
 - ~~iv. Change the use of an asset~~
 - [iii. Appropriate an asset](#)
- 2.10 When a school takes Academy status they are granted a 125 year lease of the land and buildings at a notional rent. While the council retain the freehold, the school is free to manage, maintain, and licence as it sees fit. It cannot however dispose of its interest. The Academies Act [2010](#) has a number of qualifications and conditions, but broadly speaking
- Appendix F - Real Estate, Property and Land Rules (with amendments)

apart from disposal, or granting an interest in the land that will require our consent, they are free to use and manage as they choose. [Any ancillary accommodation must be wholly or mainly used by the school to transfer under the Academies Act 2010.](#)

- 2.11 All Qualified Officers who undertake Asset Portfolio maintenance and development must do so in a manner which avoids any potential conflict of interest, is consistent with procedures set out in the Staff Handbook, and complies with the standards defined within the RICS Red Book and other approved Professional Bodies.
- 2.12 The Chief Operating Officer shall maintain, issue and publish the Management of Asset, Property and Land Rules, the [Strategic Asset Management Plan](#) ~~Asset Management Strategy~~ and the [Annual Work Plan](#) ~~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.
- [2.15 Reference must be made to the Management of Assets, Property and Land Procedures for detailed explanation of the processes associated with these Rules.](#)
- [2.16 In the event of reporting the results of public advertising of the disposal of Public Open Space under Section 123 \(2\) \(b\), if the relevant Director is not able to comply with the normal reporting cycle, and needs to proceed with urgency, then the Director must inform Ward Members of the results of the advertising so that individual Wards are able to consider and make representation to the Director if desired.](#)

3 SCOPE

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

4 REGULATION & LEGISLATION

~~4.1 CSG Estates Service is responsible for ensuring Council awareness and compliance with the requirements of all relevant legislation and professional standards, as is set out in the overarching outsourcing contract.~~

~~4.24.1 Any significant changes to existing legislation or measurement standards and methods which impact upon the Asset Portfolio will be reflected in changes to the [Annual Work Plan](#)~~Asset Management Plan~~, [Strategic Asset Management Plan](#)~~Asset Management Strategy~~ and the Corporate Plan.~~

~~4.34.2 The Management of Asset, Property and Land Rules will be reviewed and updated by [the Authority's Estates Services](#) ~~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 ~~who deliver services from Authority owned or leased buildings are responsible and accountable for the following; 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~~
- ~~5.8 [establish and administer a Corporate infrastructure for the management of Health and Safety](#)~~

Appendix F - Real Estate, Property and Land Rules (with amendments)

~~5.75.9~~ Items 5.1 to 5.8 above are to be delivered in conjunction with the Authority's Estates Services.

6 ASSET VALUE CONSIDERATION

6.1 Assets will be valued using measurements and methods defined within the RICS Red Book.

6.2 Asset valuations may only be made by Council Officers or Third Party Agents qualified to do so through membership of RICS, and as a registered Valuer.

~~6.3~~ 6.3 Asset acquisition, development and disposal decisions will be taken upon the basis of Best Consideration applicable at the time of the decision, rather than highest best price.

~~6.4~~ 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 it falls outside the scope of the General Development Order.

7 AUTHORISATION

~~7.1~~ 7.1 Any Asset acquisition or disposal included in the Annual Work Plan ~~Asset Management Plan~~, as approved by Asset Regeneration and Growth Committee ~~Cabinet Resources Committee~~, is deemed as Authorised irrespective of value.

~~7.27.1~~ Any Asset acquisition or disposal which has not been Authorised as set out in 7.1 must be Authorised in accordance with Delegated Powers as shown in Table A in Appendix 1 of these Management of Asset, Property and Land Rules.

7.2 The Chief Operating Officer or designated Officer authorised under a Scheme of Delegation may seek a change of service use decision of a Council Asset from the Assets, Regeneration and Growth Committee ~~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.

Appendix F - Real Estate, Property and Land Rules (with amendments)

8.4 The Council must apply appropriate Planning and Building Control rules when changing the use of an Asset.

8.5 ~~Any variation to a decision taken by Assets, Regeneration and Growth Committee needs to be processed in accordance with the scheme of delegation detailed in Appendix 1. at the end of this document, will be reported under a under a long form DPR in consultation with the Cabinet Member.~~

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.

Appendix F - Real Estate, Property and Land Rules (with amendments)

12 WAIVERS

12.1 In the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Lead Commissioners and Heads of Service may apply for a waiver. All applications for a waiver of these Land Rules must be submitted to Assets Regeneration and Growth Committee specifically identifying the reason for which a waiver is sought, including justification and risk.

12.2 Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.

12.4 Any waiver can only be granted for a maximum period of 12 months.

~~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 Ward Members are able to consider and make representation to the Director if desired.

Comment [S1]: Wording now incorporated at paragraph 2.16

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 **“Appropriation”** - The transfer of land from one service statutory use to another.

~~13.4~~13.5 **“Asset Life Cycle Management”** is the overall process by which a Council Asset is managed, from acquisition through ongoing maintenance and alteration, through to addressing dilapidations and disposal

~~13.5~~13.6 **“Annual Work Plansset Management Plan”** is the annual, detailed plan upon which Asset Portfolio actions are programmed

~~13.6~~13.7 **“Authorisation”** is the approval required to enable an Asset acquisition, change or disposal process to commence

13.8 **“Best Consideration”** is the best value that is reasonable obtained for an Asset. Under the Local Government Act 2000 .

~~13.7~~13.9 **“Less Than Best Transaction”** is where Councils may dispose of land at under best value where this is done to secure the promotion or improvement of the economic, social or

environmental well-being of the area ~~provided that the under value does not exceed~~
~~£2,000,000~~

~~13.8~~13.10 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery

~~13.9~~13.11 **“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~~13.12 **“Condition Surveys”** are detailed reports of the physical condition of an Asset within the Asset Portfolio of the Council

~~13.11~~13.13 **“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~~13.14 **“Disposal”** is the process by which a Council Asset is sold ~~or leased, for Best Consideration and removed from the Asset Portfolio~~

~~13.13~~13.15 **“Strategic Asset Management Plan Asset Management Strategy”** is the strategic planning document designed to develop the Asset Portfolio to achieve the Corporate Objectives of the Council

~~13.14~~13.16 **“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~~13.17 **“Licence”** is a right to occupy land or a property for a defined period of time

~~13.16~~13.18 **“Market Testing”** is the process by which Assets for disposal are ~~offered in the market advertised~~ in order to attract ~~competitive bids to secure best consideration, and retain interest from the Asset market in order to achieve Best Consideration during disposal~~

~~13.17~~13.19 **“Monitoring Officer”** is defined within the Constitution as the Chief Officer of the Council, or delegated officer

~~13.18~~13.20 **“Asset Portfolio”** is the register of Council Assets (Land and Buildings) wholly or partially owned, or leased by the Council

~~13.19~~13.21 **“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~~13.22 **“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

~~13.21~~13.23 **“Estates Senior Responsible Officer (SRO)”** is the senior responsible officer within the Commissioning Group, who is responsible for Estates Client Management

APPENDIX 1 - TABLE A – Authorisation Delegated Powersⁱ

	Authorisation Level ⁱⁱ	Acquisitions	Lease in	Lease out for Rent or Consideration	Licences, Easements and Consents	Compensations, Settlements and Covenants	Disposals
A	Less than £10,000 ⁵⁰⁰⁰	Estates SRO sign off with summary DPR Summary DPR – Lead Commissioner/Chief Operating Officer	Estates SRO sign off with summary DPR Summary DPR – Lead Commissioner/Chief Operating Officer	Estates SRO sign off with summary DPR Summary DPR – Lead Commissioner/Chief Operating Officer	Estates SRO sign off with summary DPR Summary DPR – Lead Commissioner/Chief Operating Officer	Estates SRO sign off with summary DPR Summary DPR – Lead Commissioner/Chief Operating Officer	Summary Full DPR – Director or Deputy Chief Operating Officer (unless a Less Than Best Transaction, which must be reported to Assets, Regeneration and Growth Committee (ARG), Cabinet Member – note to GRG
BC	£10,001 to £25,000	Summary DPR – Assistant Director / Chief Operating Officer	Summary DPR – Assistant Director / Chief Operating Officer	Summary DPR – Assistant Director / Chief Operating Officer	Summary DPR – Assistant Director / Chief Operating Officer	Summary DPR – Assistant Director / Chief Operating Officer	Summary DPR – Assistant Director / Chief Operating Officer
CD	£25,001 to £100,000	Full DPR – Director or Deputy Chief Operating Officer / Full DPR – Cabinet Member – note to GRG	Full DPR – Director or Deputy Chief Operating Officer / Full DPR – Cabinet Member – note to GRG	Full DPR – Director or Deputy Chief Operating Officer / Full DPR – Cabinet Member – note to GRG	Summary DPR – Director or Deputy Chief Operating Officer / Summary DPR – Cabinet Member – note to GRG	Summary DPR – Director or Deputy Chief Operating Officer / Summary DPR – Cabinet Member – note to GRG	Summary DPR – Director or Deputy Chief Operating Officer / Summary DPR – Cabinet Member – note to GRG

ⁱ This Table applies to Land and Building activity NOT included in the approved [Annual Work Plan Estate Management Plan](#)

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

D	More than £100,000 ¹	Report to Assets Regeneration and Growth Committee (ARG) CRC Report	Report to Assets Regeneration and Growth Committee (ARG) CRC Report	Report to Assets Regeneration and Growth Committee (ARG) CRC Report	Report to Assets Regeneration and Growth Committee (ARG) CRC Report	Report to Assets Regeneration and Growth Committee (ARG) CRC Report	Report to Assets Regeneration and Growth Committee (ARG) CRC Report
E	'Non-Value' Variations post Authorisation	Delegated Powers Report Approval needed at the NEXT highest threshold above the original decision	Delegated Powers Report Approval IBC	Delegated Powers Report Approval IBC	Delegated Powers Report Approval	Delegated Powers Report Approval	Long form DPR in consultation with Cabinet member Summary DPR – Director or Deputy Chief Operating Officer Report to next Asset Regeneration and Growth Committee (ARG)
F	Variations post Authorisation	Delegated Powers Report Approval needed at the NEXT highest threshold above the original decision					

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 £5 10,000	Summary DPR – Lead Commissioner/Chief Operating Officer Estates SRO sign off with summary DPR	Summary DPR – Asst Director/ Deputy Chief Operating Officer
B	£5001 to £10000	Summary DPR – Asst Director/Chief Operating Officer	Summary DPR – Director/Chief Operating Officer
C	£10,001 to £25,000	Summary DPR - Director/Chief Operating Officer	Summary DPR – Cabinet Member/ Director/Chief Operating Officer
D	£25,001 to £100,000	Summary DPR – Cabinet Member – Chief Operating Officer note to ERC Assets, Regeneration and Growth Committee	ERC Report Full DPR Chief Operating Officer
E	More than £100,000	ERC Assets Regeneration and Growth Committee Report	Assets Regeneration and Growth Committee Report/ ERC Report
F	Net Value dependant	ERC Report	ERC Report

Appendix F - Real Estate, Property and Land Rules (with amendments)

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HR Regulations

Except for the powers reserved to General Functions Committee and the Remuneration Committee the offer, appointment, varying and ending of contracts of employment is a matter for the Head of Paid Service. The Head of Paid Service will discharge their responsibilities at an operational level through the Human Resources function Director, save as to where such functions may not be discharged by Third Parties. ~~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 in consultation with the Council's Monitoring Officer.

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

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

1. The Council Establishment

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

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

2.1 Officer Employment Procedure Rules.

The Local Government Act 2000, and the Local Authorities (Standing Orders) Regulations 2001 requires the Council to have rules relating to the recruitment, appointment and dismissal of officers. ~~these~~ 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	All candidates must complete a code of conduct declaration of interests <u>statement form</u> as part of the

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.	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 <u>Human Resources Director</u> for the relevant <u>Chief Officer</u> 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 including that the any~~ appointment that may be made exclusively from among their existing officers, the council will:

<p>(a) draw up a statement specifying:</p> <p>(i) the duties of the officer concerned; and</p> <p><u>(ii)</u> any qualifications or qualities to be sought in the person to be appointed;</p> <p>(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and</p> <p><u>(c)</u> make arrangements for a copy of the statement mentioned in paragraphs (1) and 2(a) to be sent to any person on request; and</p> <p>(e)<u>(d)</u> <u>Agree the minimum criteria by which objective selection may be made.</u></p>	Appointment of Chief Officers is a functions reserved to the Remuneration Committee and <u>may include</u> an external appointment process will encompass this process
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2.1.3. **Appointment of head of paid service**

<p>(a) The full council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee or sub-committee of the council. That committee or sub-committee must include at least one member of the executive. Full Council must also approve the dismissal of the Head of Paid Service.</p>	<p>Appointment of Chief Officers is a functions reserved to the Remuneration Committee. The Remuneration Committee will make a recommendation on the appointment of the Head of Paid Service for approval by Full Council. which includes at least one member of the executive.</p>
<p>(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 <u>Executive Council</u>.</p>	<p>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 Council that would disqualify the candidate and which are substantiated will be communicated to Remuneration Committee so that action can be taken. the Council as part of the report from Remuneration Committee.</p>

2.1.4. **Appointment of chief officers**

<p>(a) A Committee or Sub-committee of the council will appoint chief officers. That Committee or sub-committee must include at least one member of the Executive.</p>	<p>Appointment of Chief Officers is a functions reserved to the Remuneration Committee, <u>which includes at least one member of the Executive.</u></p>
<p>(b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the <u>Executive Council</u> has been received.</p>	<p>Appointment of Chief Officers is a functions reserved to the Remuneration Committee. Well founded objections from any member of the <u>Executive Council that would disqualify the candidate and which</u> are substantiated will be communicated to Remuneration Committee so that action can be taken.</p>

2.1.5. **Other appointments**

(a) Officers below chief officer.

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

(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<u>The Head of Paid Service</u> will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.</p>
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2.1.6. **Disciplinary action**

<p>(a) Suspension. The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.</p>	<p>Human Resources<u>The Head of Paid Service</u> will be responsible to ensure that the correct processes are followed. <u>Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.</u></p>
<p>(b) Independent person. No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation</p>	<p>Human Resources<u>The Head of Paid Service</u> will be responsible to ensure that the correct processes are followed. <u>Where the process involves the Head of Paid</u></p>

in a report made by a designated independent person.	<u>Service, the Council's Monitoring Officer will be responsible.</u>
(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.	<u>The Head of Paid Service Human Resources</u> 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.	<u>The Head of Paid Service Human Resources</u> 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

With the exception of chief officers, terms and conditions for employees will be determined by the Head of Paid Service within the agreed negotiating mechanisms.

Directors, Assistant Directors, Heads of Service 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.

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

3 Employee Records

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

4. Salaries & allowances payable to Council employees and Pensioners

~~HR The Head of Paid Service will~~ The Human Resources Director will ensure that properly authorised payments for Salaries and Allowances

shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

5. Members Allowances.

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

5.2 ~~HR The Head of Paid Service~~ Human Resources Director will ensure that these payments are made on an accurate and timely basis.

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

6 Pensions Administration

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

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

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

BARNET COUNCIL

MEMBERS CODE OF CONDUCT

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;~~

~~(eb)~~ 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:-
- (a) treat others in a manner which is consistent with the obligations set out in paragraphs 1 (5) and 1 (6) above.
 - (b) treat others with respect.
- (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

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
 - (iii) 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 1 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.

10.3 You must declare any personal interests, both pecuniary and non-pecuniary, including your membership of any Trade Union that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in section 12 below.

Gifts and Hospitality

- 11.1 You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality offered with a value in excess of £25 which you have accepted or declined 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

- 12.1 You must, within 28 days of taking office as a member or co-opted member, notify ~~your authority's the m~~Monitoring ~~e~~Officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 12.2 In addition, you must, within 28 days of taking office as a member or co-opted member, notify ~~your authority's the m~~Monitoring ~~e~~Officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register or which you consider should be included if you are to fulfil your duty to act in conformity with the Seven Principles of Public Life. These non-pecuniary interests will necessarily include your membership of any Trade Union.
- 12.3 If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.
- 12.4 Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
- 12.5 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. You should leave the room.

Sensitive information

13. Where you have a personal or declarable pecuniary interest and you and the Monitoring Officer consider that it is of such a nature that disclosure of the details of the interest could lead to you or a person connected to you being subject to

violence or intimidation then:

(a) if the interest is entered on the Council's Register, copies that are made available for inspection and any published version of the Register must not include details of the interest but may state that you have an interest details of which are withheld under this provision.

(b) if by virtue of this Code you are required to disclose an interest at a meeting then that requirement shall be amended to only require disclosure that such an interest exists in respect of the matter concerned, but not the terms of that interest.

(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.

DISCLOSABLE PECUNIARY INTERESTS

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner. 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.

<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, which you, or your spouse or civil partner undertakes.
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 or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992). The relevant period is the 12 months ending on the day when you tell the Monitoring Officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
Contracts	Any contract which is made between you, or your spouse or civil partner (or 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 works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which you, or your spouse or civil partner is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) which you, or your spouse or civil partner, holds 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 you, or your spouse or civil partner 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.

Process for complaints about the conduct of a councillor or co-opted member

- (a) Complaints would initially be investigated by the Monitoring Officer or a representative designated by him/her.
 - (i) The Monitoring Officer after consulting with the Independent Person will decide whether any complaint should go to a formal process. If the Monitoring Officer believes that the complaint is frivolous or vexatious or does not fall within the scope of the Code or Conduct, the complaint can be rejected following consultation with an appointed Independent Person.
 - (ii) If the Monitoring Officer decides that a complaint should go to a formal process, the Monitoring Officer will provide a written report to the Group Leaders Panel within three months 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.
- (b) The complainant and subject Member would be able to make written representations to and answer questions in writing or verbally from the Monitoring Officer but there would not be 'in person' interviews at this stage.
- (c) The Monitoring Officer would have the discretion to assemble other evidence to assist the Panel as appropriate.
- (d) The Panel would have discretion to decide whether to take evidence in writing or in person from the complainant and the subject Member and whether or not to take statements / evidence from other parties.
- (e) Procedures would have an emphasis on flexibility and informality (insofar as possible and consistent with the principles of natural justice) and dispute resolution.
- (f) Consideration of and decisions on complaints to be dealt with by a Panel comprising the Leaders of all the political Groups represented on the Council taking account of the views of the 'Independent Person', with a right of appeal to full Council. Where the subject member is a Group Leader, the Panel would comprise the Deputy Group Leader.
- (g) Powers of sanction would include resolution of censure but would also extend to requests to Group Leaders/Political Groups to take appropriate action.
- (h) When giving evidence in person to the Group Leaders Panel, the complainant and the subject Member could bring along a friend/lay person (but not a legal representative), based on the definition used in staff disciplinary procedures.
- (i) Where a Member is found by the Panel to be in breach of the Code of Conduct, the Panel could, if they so decided, [recommend to Full Council to pass a resolution of censure](#) or make recommendations to the Group Leaders/Political Groups on what "sanctions" the Panel believe should be imposed, subject to the Group Leaders/Political Groups being legally able to impose such "sanctions".
- (j) Where the Group Leaders /Political Groups are asked to impose appropriate sanctions, there should be a requirement for the Group Leaders to formally notify the Panel on what action they have taken and, if no action is taken, the reason why.
- (k) All decisions following a hearing should be published on the council's website; subject to the right of a subject Member to request non-publication in any case where there is a finding that the Code of Conduct has not been breached.
- (l) Two "Independent Persons" should be appointed to ensure that one is always available to be consulted. One would be the primary independent person and the other a secondary independent person.

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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 Group Leader's Panel for breach of this Code. The Barnet Members Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. 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 Members 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 to 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 of Conduct.
- 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 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/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

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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 relevant Director 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 relevant Planning Officer 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

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 Members Code of Conduct and, should there be any apparent conflict, the requirements of the Members Code of Conduct takes priority.

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

- Putting the Council at risk of the legality and/or maladministration of the related decision; and/or
- The Member at risk of an allegation of breach of the Members Code of Conduct.

2. Licensing Decisions

- 2.1 Decisions that the Council makes about 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 Members Code of Conduct requires Members to avoid any possibility of being influenced by their own personal interests. However, for certain types of decision like Planning and Licensing, the requirements of the Code go further than this. 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.

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- 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 and non-pecuniary interests in the context of Licensing are the same as for all other areas of the Council's work, and, as provided in the Members' Code of Conduct, contained within the Council's Constitution;
 - ii. A non-pecuniary interest does not need to be declared at a meeting where the interest arises solely from a body to which the Member was appointed by the Council or another public body, unless and until the Member speaks on the item;
 - iii. A member should not if s/he has a disclosable pecuniary interest in an application sit on the sub-committee considering that application.
 - iv. A Member may sit on a sub-committee and consider an application if they have a **non pecuniary interest**, but are advised to decline to sit on the sub-committee.
 - v. A member is advised not to sit on a sub-committee when that sub-committee is considering an application in the Member's Ward, to avoid accusations of pre-determination and to reduce the risk of legal challenge and/or to reduce the possibility of decisions being taken on the basis of political judgement. This will enable Ward Members to represent their constituents at committee hearings.
 - 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-

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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 pecuniary 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 Governance 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 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 e.g. 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 Sub-committee fails to address a number of issues properly, then the Ombudsman might decide that this amounted to “maladministration.” If the Ombudsman also considers that injustice has been done, he then has a variety of powers to call for a remedy.
- 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

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

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OFFICERS CODE OF CONDUCT

1. Introduction

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

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

- 1.1. The National Joint Council for Local Government Services (the Green Book) and the Constitution Salaries Conditions of Service (Joint Negotiating Committee for Chief Officers of Local Authorities) says: "Employees will maintain conduct of the highest standards that public confidence in their integrity is sustained. Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers."
- 1.2. This Code of Conduct applies to all employees and workers under a contract with the council. Governing bodies of non-community schools and partner organisations in receipt of public funds should be encouraged to adopt this Code of Conduct.

2. Standards

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

3. Council Information

- 3.1. London Borough of Barnet (LBB) policies on information management and security can be found in the employee handbook. These policies outline responsibilities for the management and security of Barnet Council information. It is a condition of employment at Barnet Council that staff work at all times in accordance with these policies. The policies may be amended and added to from time to time and the intranet site will show the most recent policies which staff must observe.

- 3.2. Line managers are responsible for ensuring that staff are supported in complying with council information management (IM) policies and staff should identify to their line manager any concerns that prevent compliance with the policies. The Council will consider very seriously any alleged breaches of these policies which may be dealt with under the Council's Disciplinary Procedure.
- 3.3. It is generally accepted that open and transparent government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Staff must be aware of the authority's policies and of their duties in relation to the handling of both personally and commercially sensitive information. If in doubt guidance should be sought from management before information is disclosed.
- 3.4. The Council has a process for dealing with information requested under the Freedom of Information Act, 2000 the [Freedom of Information \(FOI\) Policy](#), [Media Request Protocol](#) and [FOI Staff Guidance](#) 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 Contract Procedure Rules and Procurement Code of Practice.

7. Additional Employment

- 7.1. Staff should be clear about their contractual obligations and should not take outside employment or engage in any business which conflicts with the authority's interests. Staff must not seek to benefit personally by using experience, training or materials gained through their employment with the council to seek or accept work with Barnet's contractors, suppliers or partners.
- 7.2. Staff must not use the Council's contacts and suppliers in order to set up a venture on their own account, in competition with or to the detriment of the Council.
- 7.3. Current policy in Barnet (but subject to each individual case being considered on its merits and in accordance with the Council's personnel procedures), states that in order to avoid any conflict of interests, all staff involved in any proposed Management Buy Out be given unpaid leave of absence pending a conclusion or, if directly involved in negotiating the buy out, be asked to resign from the Council's service
- 7.4. Staff must not take up any other employment or engage in any business without written approval.
- 7.5. Approval to undertake additional employment or engage in any business will depend on the circumstances of the Officer's particular situation. Any additional employment must not in the view of the Authority be likely to conflict with or be detrimental to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business. Situations where staff fail to seek permission or disclose details of their additional employment will be dealt with under the Council's Disciplinary Rules and Procedure and could result in the employee's dismissal for gross misconduct.
- 7.6. Assistant Directors (ADs) and above are empowered to decide whether officers should be permitted to take up part- time employment or engage in any business in addition to their full or part-time appointment with the council. The decision in this respect should be communicated in writing to the employee concerned. A copy must be placed in their personal file. Requests from AD and above should be referred to the Chief Executive for a decision.
- 7.7. With regard to holders of job share or part-time posts, each case will be looked at on an individual basis by the AD or Chief Executive as appropriate.
- 7.8. Where in doubt, staff should seek advice from their AD.

8. Intellectual property

- 8.1. Intellectual property is a generic term that includes inventions, applications, programmes, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.
- 8.2. Inventions and Patents
Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after the 1st June 1978 inventions are only the property of the employer if: they have been made in the course of the employee's normal duties; or they have been made in the course of duties specifically assigned to the employee and where invention might reasonably be expected; or it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.
- 9. Conflict of interest**
- 9.1. Staff must declare any non-financial interests that they consider could bring about conflict with the authority's interests e.g. involvement with an organisation or pressure group which may seek to influence their authority's policies or acting as a School Governor within schools maintained by the authority.
- 9.2. Where a worker believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue.
- 9.3. Further guidance notes will be issued with the declaration form that will be used to declare interests, to distinguish the types of membership of groups that require to be declared. It is not intended for staff to declare membership of legitimate political parties or Trade Unions.
- 9.4. Any interests, financial or otherwise which could conflict with the authority's interests must be declared e.g. involvement with an organisation applying for or receiving grant aid from the authority, or involvement with an organisation that is seeking to contract with the council or is already a contractor or client. It is accepted that some staff may be members of organisations and groups and have no active involvement in the group. However, there is an expectation that where an employee is involved in the running of the group or organisation, has a financial interest or otherwise, or is involved as a Committee member, or in the decision making process, that this would be declared. Likewise those who are asked to undertake work in response to a request from a group or organisation of which they are a member would be wise to declare their membership.

- 9.5. Staff must declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct.
- 9.6. The completed declaration of interest form will be reviewed by an appropriate AD to consider any action that may be necessary before being placed on the employee's personal file.
- 9.7. The declaration of interest is not a historical document to reflect the situation at time of entry to the Council's employment, rather an evolving document that must be kept up-to-date. It is the responsibility of the employee to ensure that as their circumstances change during the time of their employment that they keep their declaration up-to-date. Should an employee need to amend or review a declaration they must contact 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 Council's Contract Procedure Rules.

10. Workers and Residents

- 10.1. In circumstances, where an LBB worker who is also a resident of LBB wishes to make an opinion about the policies being followed by the Council then such expressions of opinion must make clear that the person concerned is expressing an opinion as a resident of LBB and not as a Council worker.
- 10.2. The worker must ensure that they do not divulge any information that is not already in the public domain.
- 10.3. Where opinions are expressed on TV, film, website, social networking site or in photographs, the worker must not wear any badges or clothing which would readily identify the individual as a worker at the Council.

- 10.4. Should a worker express an opinion without making clear that he or she is making that opinion as a resident of LBB or he or she is wearing badges or clothing that readily identifies the individual as a worker at the Council, he or she may be subject to a disciplinary process.
- 10.5. Council staff who are Trade Union officials must not make statements about Council business without making it clear that this is in their official union capacity in accordance with agreed working protocols.

11. Equal Opportunities in Employment

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

12. Separation of Roles During Tendering

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

13. Use of Financial Resources

- 13.1 Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

13.2 In addition, staff must consider financial matters solely with regard to the public interest and in accordance with the council's financial regulations.

14. Corruption

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

15. Gifts, Hospitality and Sponsorship

15.1 In the course of their work for or on behalf of the Council, staff may be offered gifts, hospitality or sponsorship by contractors, consultants, clients or other members of the public. In some instances, accepting such gifts could place staff in a serious predicament, open to allegations of bribery and corruption, disciplinary proceedings and or criminal investigation.

15.2 These guidelines are designed to protect workers from such allegations, proceedings or investigations. It is essential that workers are open, and not secretive in their relationships with outside agencies and at all times act in a manner that will protect the integrity and reputation of the Council. Under no circumstances should gifts, hospitality or sponsorship be accepted to give personal, commercial, regulatory or contractual advantage (acceptance of bribes). All workers are required to have an understanding and awareness of the Counter Fraud Framework – Bribery Policy Statement and Procedure.

15.3 Accepting bribes is a matter to be investigated by the Corporate Anti Fraud Team (CAFT) and could result in prosecution.

15.4 Any gift, hospitality or sponsorship that is offered in connection with work undertaken for the Council (whether accepted or not) must be recorded in writing, immediately on receipt, or offer, on the Hospitality, Gifts and Sponsorship Declaration Form. For the avoidance of doubt, it is required to fully complete the declaration form on each and every occasion that an offer of a gift, hospitality or sponsorship is made, unless there is an exemption for gifts, etc. below a specified value threshold.

15.5 After completion, the declaration form must then be passed immediately to the line manager. Once the line manager has completed their section they should then immediately pass the declaration form to the Council's Monitoring Officer. The Monitoring Officer will consider if further action is appropriate. The Monitoring Officer will then pass the declaration form to a Governance Officer for inclusion in the central register recording receipt/offers of gifts, hospitality and sponsorship to Council officers. In the interests of transparency the Council may publish the "gifts hospitality and sponsorship" register, but will delete personal data, where it is appropriate to do so.

- 15.6 **Minor gifts/hospitality under £25**, e.g. calendars, diaries, stationery items, need not be recorded. The same applies to the receipt of minor hospitality e.g. tea and biscuits. Where unsolicited gifts, with a value of less than £25, such as a bottle of wine, food, confectionery, etc are offered, these can be accepted, and if not capable of sharing with colleagues, residents/users (e.g. of a social services' establishment), they may be kept for personal use or donated to the Mayor's charity. Staff should declare multiple gifts received (in a period of 12 months) from the same donator/company whether or not they exceed £25.
- 15.7 **Gifts of higher value**, e.g. cases of spirits, clothes, jewellery, holiday bookings, holiday discounts and electrical equipment, must not be accepted and, if received, should be returned to the sender, but must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such gifts must be separately reported by you)
- 15.8 **Cash, Cheques, Money Orders**, or any monetary form offered to or received as a gift or otherwise must not be accepted, under any circumstance, and any such offers must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such offer or receipt must be separately reported by you)
- 15.9 **Discounts**, It is not permitted, on a personal basis, to take advantage of discounts which have been offered or negotiated by the Council with its suppliers for the purchase of goods, materials or services, unless the discount has been negotiated specifically as a benefit available to all staff or to a specific group of staff (of which the individual claiming the discount is a member).
- 15.10 **Hospitality**, The Council recognises that from time to time there is a need for certain officers to attend business functions where they may receive hospitality in the form of light refreshments, drinks and/or meals. Such hospitality may be accepted when provided in the course of normal business - e.g. lunch at a contractor's expense during a business meeting or function, provided that it is recorded in the gifts, hospitality and sponsorship register (subject to the exemption for minor hospitality previously referred to). If the offer of alcohol is accepted, vehicles must not be driven until an appropriate time has elapsed for the alcohol to have left the system. Individuals should consider whether the acceptance of hospitality could affect or may reasonably be perceived as likely to affect the outcome of a business transaction involving the Council or may otherwise be reasonably perceived as not appropriate and/or not bona fide expenditure.
- 15.11 **Prestige Events**, Invitations to prestige events, such as Wimbledon and Royal Ascot and other events such as football matches, theatre, opera, or weekend breaks must not be accepted, and offers must be recorded on the declaration form. Consideration may be given to attendance at certain events if that attendance is in connection with the business purposes or otherwise in the interests of the Council, but authorisation must be obtained from your line

manager and approved by the Monitoring Officer before any attendance and this must be recorded on the declaration form.

- 15.12 **Sponsorship**, Attendance at sponsored conferences and other business related events would be permissible provided that such attendance is either necessary for the business purposes or otherwise in the interests of the Council or it is normal practice for officers in local authorities or other public bodies to attend. Attendance must be recorded on the declaration form.
- 15.13 **Council workers providing personal care**, such as Care Workers, Home Helps and Wardens of sheltered housing accommodation can sometimes be offered jewellery, money or other gifts, or bequests of substantial value by clients. There are special considerations when dealing with elderly, confused or otherwise vulnerable clients, as accepting such gifts may place staff in a vulnerable position. Any such offers from clients, or their relatives, friends or other members of the public, must be reported immediately to the line manager. Where-ever possible gifts from clients should be refused, and they may only be accepted if to refuse would give offence, they are under the value of £25, a declaration form has been completed (even though below the normal value threshold) and with the prior consent of the employee's line manager and the Monitoring Officer.
- 15.14 There are certain groups of employee (e.g. Refuse Officers, Enforcement Officers, Purchasing/Procurement Officers, Planners, Major Programme/Project leads) for whom it would be inappropriate to receive any gifts or hospitality in view of the nature of their work. Holders of these roles will be notified by their Assistant Director (or other appropriate senior officer) of any additional rules which apply.
- 15.15 **No gifts or hospitality are to be accepted from contractors who are considering or submitting a tender during a tendering period.**
- 15.16 Records may be subject to inspection.
- 15.17 Failure to adhere to this code of practice will be regarded as gross misconduct and could lead to dismissal.

16. Sponsorship – Giving and Receiving

- 16.1 Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 16.2 Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the

community, staff should ensure that impartial advice is given and that there is no conflict of interest involved.

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

- 17.1 The Council's electronic assets, including PC/laptop/phone, e-mail, Internet web access and Intranet facilities are provided to assist Council business and are not intended for personal use. (See the Information Governance (IG) policies and procedures for detailed guidance).
- 17.2 Accessing, storing or transmitting offensive material via e-mail, the Internet or the Intranet is expressly prohibited. Offensive material includes, but is not limited to, pornographic, racist, terrorist and sexist material.
- 17.3 The usage of web and e-mail addresses will be logged and audited on a regular basis. Any apparent misuse of these facilities may lead to disciplinary action being considered.
- 17.4 Up-to-date information on the Council's Acceptable Use Policy is available on the Internet and should be regularly reviewed by users of the Council's Internet and Intranet facilities.
- 17.5 Social Media - It is not acceptable for workers of the Council to make use of social media to post opinions, write blogs, tweet (or equivalent) about Council business unless in an authorised capacity on an official Barnet internet site, blog or twitter account. Staff who are residents must make it clear through their communication and dress that views being expressed are personal and do not reflect those of the Council. Failure to comply with this, with the result that the Council is or could be brought into disrepute, could result in disciplinary action.
- 17.6 It is not permitted for Council workers to provide information to third party authors of blogs or online content about the Council. In cases where it is discovered that confidential information has entered the public domain, the Council will investigate and may use forensic electronic methods to discover the source.

18. Application of the Code of Conduct

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

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

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

20. Criminal Offences

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

21. Fraud

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

22. Restraint of Trade – HAY Graded Staff

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

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

NB this will be an online process

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

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

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.	

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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
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 and how those policies are to be delivered in practice
- ~~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, Director of Adult Social Services and Director of Children's Service. Others, such as the Registrars of Births, Deaths and Marriages or Health and Safety at Work Inspectors, work under special statutory regimes;
- The Council has given delegated powers to Directors and Chief Officers so that they can act and take decisions on behalf of the Council in many areas, provided they follow the rules of delegation and Members have access to their decisions; and
- The Council is a very large organisation, and officers have a role to play within the organisation itself.

- 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~~, Chairmen and Vice-Chairmen, either on a specific topic or prior to a formal meeting or the like.
- Officers may ~~meet Cabinet Members and~~ Chairmen prior to consulting them formally as a precondition to exercising delegated powers.
- Officers may attend for briefing with the Leader and Lead Members of all political parties on the Council in their offices.
- The Leader of the Council ~~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 Governance Service. In making contact the assistant must be careful not to misrepresent the intentions of the group, and must clarify whether they are representing the whole group or individual members.
 - The existence of assistants should not detract from normal Member/officer relationships.

- They cannot access files that a Councillor cannot access, unless the Councillor has demonstrated the need to know.
- In external relationships, they must make it clear that they are acting on group instructions, not for the whole Council. They must not speak to a public audience on terms which might create the impression that they are speaking as a representative of their political party.

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~~ Chairmen and Vice Chairmen 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. **WHISTLEBLOWING**

- 14.1 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.
- 14.2 The Council neither tolerates improper conduct by its employees or Members, nor the taking of reprisals against those who come forward to disclose such conduct. It is committed to the highest possible standards of openness, probity and the aims and objectives of the Public Interest Disclosure Act 1998. As such all Members have a duty to comply with the Council's Whistleblowing policy and;
- promptly raise with the council's Whistleblowing Officer, Monitoring Officer or Chief Executive any irregularities and matters which they feel have been dealt with improperly
 - provide them with all the evidence or relevant information they have.
- 14.3 In particular, Members have a duty to raise any issues they have reason to think might involve fraud, corruption, bribery or money laundering activity.
- 14.4 In accordance with the Whistleblowing policy any person who makes a report in good faith will be protected from victimisation or reprisal.

- 14.5 No action will be taken against any person if a report has been made in good faith but is not confirmed by the investigation.
- 14.6 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.
- 14.7 The provisions of this code are in addition to the right of any Member or employee to raise an issue of concern with an appropriate body outside the Council.

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LONDON BOROUGH OF BARNET CODE OF CORPORATE GOVERNANCE

1. INTRODUCTION

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

2. ELEMENTS OF CORPORATE GOVERNANCE

- 2.1 The Code is embodied in various policies, procedures and other documents. The Code provides a summary of how, through these policies, procedures and documents, the Council complies with the core and supporting principles within the “Delivering Good Governance in Local Government” framework.
- 2.2 The Council produces an Annual Governance Statement to report publicly on the extent to which the Council complies with its local code, including how the effectiveness of these arrangements during the year have been monitored, and on any planned changes in the coming period. (This is a statutory requirement under the Accounts and Audit (Amendment) Regulations 2006.
- 2.3.1 The following table identifies the means through which the council will achieve these core principles as well as the supporting principles and the requirements associated with them.

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.

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 contributes to service delivery with all complaints, comments and compliments logged on one system and categorised in line with Local Government guidance.</p>
<p>1.3 Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money</p>	<p>Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions</p>	<p>The Corporate Plan includes a clear definition of how value-for-money will be measured, with key performance indicators in place.</p> <p>Responsibility for addressing value-for-money delivery is clearly allocated to Officers with the necessary skills and clear guidance is available.</p> <p>The Council's External Audit arrangements review value for money and performance and report annually to those charged with governance.</p> <p>The Council's Internal Audit arrangements are compliant with the Internal Audit Code of Practice based on CIPFA guidance. The Internal Audit Charter is in place which emphasises reviewing arrangements within the council to make the best use of resources.</p>

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

Supporting Principles	Requirements	How the Council meets the Requirements
<p>2.1 Ensure effective leadership throughout the authority, and be clear about executive and non-executive functions</p>	<p>Set out a clear statement of the respective roles and responsibilities of the Leader Executive and of all Council Committees Executive Members individually and the authority's approach towards</p>	<p>The Constitution defines the roles and responsibilities of the Leader, and Deputy Leader, Cabinet and individual Executive members.</p> <p>The Constitution defines the roles and responsibilities of all Council</p>

<p>and of the roles and responsibilities of the scrutiny function</p>	<p>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>Committees.</p>
<p>2.2 Ensure that a constructive working relationship exists between authority members and officers and that the responsibilities of authority members and officers are carried out to a high standard</p>	<p>Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for the collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required</p> <p>Make a Chief Executive responsible and accountable to the authority for all aspects of operational management</p> <p>Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained</p> <p>Make a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control</p> <p>Make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with</p>	<p>The Constitution clearly sets out the Protocol between Members and Officers. Code of Conduct exists separately for Members and for Officers. Job descriptions are in place clearly defining the roles and responsibilities of senior officers. The Council has an annual and half yearly performance review system.</p> <p>Article <u>9 44</u> 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</p>	<p>Develop protocols to ensure effective communication between members and officers in their respective roles</p>	<p>Appropriate employment policies are followed including the National Joint Council for Local Government Services as well as Local</p>

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

Supporting Principles	Requirements	How the Council meets the Requirements
<p>3.1 Ensure Members and officers exercise leadership by behaving in</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>The Constitution contains codes of conduct and protocols for Members and Officers; there is a performance review process, a corporate</p>

<p>ways that exemplify high standards of conduct and effective governance</p>	<p>Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols</p> <p>Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice</p>	<p>complaints process and an anti-fraud and corruption policy.</p> <p>There is a counter fraud framework meeting statutory requirements and according with best practice guidelines. This framework includes the Whistle-Blowing Policy, Fraud Policy, Prosecution Policy, RIPA Policy as well as an annual report to the Audit Committee and an annual work plan.</p> <p>The Code of Conduct for Members provides effective arrangements for ensuring that Members are not influenced by prejudice, bias or conflicts of interests, which are implemented through training and the existence of processes to obtain details of personal interests:</p> <ul style="list-style-type: none"> - the Monitoring officer compiles the Register of Interests and conducts an annual review; - all Council and Committee meetings have declaration of disclosable pecuniary and non-pecuniary 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</p>	<p>Develop and maintain shared values including leadership values both for the organisation and staff reflecting public</p>	<p>The Council has a published set of values: Being Trustworthy, Valuing Diversity, Being Human, and Being Collaborative.</p>

effective	<p>expectations, and communicate these with members, staff, the community and partners</p> <p>Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</p> <p>Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority</p> <p>In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively</p>	<p>Codes of Conduct for Members and Officers are publicly available facilitate the development and maintenance of shared values reflecting public expectations.</p> <p>The Constitution, Ethics and Probity Committee operates in line with clear terms of reference contained in the Constitution. This includes “to consider and make recommendations to the Council on (i) how it can satisfy the continuing duty to promote and maintain high standards of conduct for Members; (ii) on the Code of Conduct for Members and (iii) on ethical standards in general across the authority”.</p> <p>Decision making practices are publicly available and include decision-making principles supporting high standards of conduct.</p> <p>Processes for reporting complaints relating to Member conduct are clearly set out on Barnet Online.</p>
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<i>Principle 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.</i>		
Supporting Principles	Requirements	How the Council meets the Requirements
<p>4.1 Be rigorous and transparent about how decisions are taken and listen and act on the outcome of constructive scrutiny</p>	<p>Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.</p> <p>Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based</p> <p>Put in place arrangements to</p>	<p><u>The Council resolved on 21 January 2014 to make a change to its governance arrangements to adopt a committee system. With the exception of day to day operational matters, decisions will be made by committees whose membership will reflect the political balance of the Council.</u></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>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>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 complaints handling across the Council.</p>
<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</p>

		review, including the availability and recording of legal and financial advice.
4.3 Ensure that an effective risk management system is in place.	<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 <u>Framework Strategy and Policy Statement</u> 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>
4.4 Their legal powers to the full benefit of the citizens and communities in their area	<p>Actively recognise the limits of lawful activity placed on the authority by, for example, the ultra vires doctrine but also strive to utilise its powers to the full benefit of the community.</p> <p>Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on the authority by public law.</p> <p>Observe all specific legislative requirements placed upon the authority, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law - rationality, legality and natural justice - into its procedures and decision making</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 decision making process within a legal context; and • the Internal Audit function and Corporate Anti-fraud function are in place to provide independent assurance on risk areas.

	processes.	

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, 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</p>	<p>The performance review process (with appraisals recorded and monitored) is the main basis for identifying and addressing training needs, including addressing the skill and support requirements of the statutory officers. Group Leaders administer this for their party.</p> <p>Training in relation to an Officer's area of responsibility is given and for financial and other cross-cutting systems with training needs assessed at appraisals.</p> <p>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</p>

	training or development needs	agreed by General Functions Committee in 2011.
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>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
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>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 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>
6.2 Take an active and	Ensure clear channels of	Residents Forums, corporate and

<p>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>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 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>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 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</p>
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		<p>Council's vision to Council and therefore public. Council also publishes the Annual Governance Statement as part of the Annual Statement of Accounts.</p> <p>The Council is open and accessible to the public through:</p> <ul style="list-style-type: none"> - 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>
6.3 Make best use of human resources by taking an active and planned approach to meet responsibility to staff	Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	There are clear policies for consultation with staff and their representatives, including trade unions.

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.

Part 4, Section 3 – 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 Residents 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, , is available for public questions and comments in total.
- 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. The supplementary question must be relevant to the original question put to the Chairman.

- 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 3 minutes to address the Committee. Committee Members will then have the opportunity to question each speaker on the representation that they have made.
- 3.4 Comments may also be made in writing within the same deadlines as para 3.2 and these will be published as an addendum to a report

4. Public Comments at Planning Committees and Sub-Committees

- 4.1 For requests to speak on planning applications or applications for consent to undertake treatment of tree(s) included in tree-Tree preservation Preservation orders-Orders at planning-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 representative 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 or Sub-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 or Sub-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 representative 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:
 - 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
- If they relate to the making / confirmation of Tree Preservation Orders as the procedure for making objections or representations is prescribed by the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012:

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 (other than the written questions to the Leader)
- Informal meetings
- Licensing Committees and sub-Committees – the procedure for making representations on licensing applications is prescribed by the Licensing Act 2003

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 and the relevant Committee Chairman.

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
- 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 9 of the Constitution or
 - ii) Be referred to the appropriate Committee 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 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 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 sub-Committee

- Formally refer to a relevant Committee
- 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 by the next available meeting of the Policy and Resources Committee. Petitions are required to be received 15 days before the Committee meeting and only one petition will normally be heard per meeting. The Chairman of Policy and Resources will request that the relevant Chief Officer and Chairman of the relevant Committee attend the meeting to be called to give account with regard to the issue 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) Chief Officer and Chairman of the relevant Committee respond to the issues raised in the petition;
- iv) Committee Members ask questions of the Chief Officer and relevant Committee Chairman;
- v) 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 Chief officer and relevant Committee Chairman on the issue(s) and a recommended course of action. Such representation requires a formal response to the Chairman of Policy and Resources and Lead petitioner within 20 working days.
 - Instruct an officer to prepare a report for a future meeting of the Committee on the issue(s) raised.
 - Commission a committee report on the issue(s)
 - Commission a Task and finish Group or Panel to consider the issue(s)

6.10 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 Committee Chairman will respond to the issues raised in the petition and outline the action (if any) he/she proposes to take

6.11 Any received hard copy petition will be published on the council's website via the Council's e-petition facility.

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Meeting	Constitution, Ethics and Probity Committee
Date	24 March 2014
Subject	Joint Venture Board and Constitutional Additions
Report of	Commercial & Customer Services Director
Summary of Report	This reports sets out proposals for dealing with “Reserved Matters” within the Joint Venture Agreement with Capita Symonds under the new governance arrangements.

Officer Contributors	Claire Symonds, Commercial & Customer Services Director
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix A – list of matters that require the consent of each of the Shareholders Appendix B – Clauses 18.3 & 18.4 of Joint Venture Agreement Appendix C – Constitution tracked changes
Contact for Further Information:	Claire Symonds, Commercial & Customer Services Director, Claire.symonds@barnet.gov.uk

1. RECOMMENDATION

- 1.1 That the Committee comment on the proposals contained within this report for inclusion in the drafting of the Constitution.**
- 1.2 Officers be instructed to make the required additions to the Constitution for recommendation to Full Council.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet 24 June 2013 – resolved that:
 - Cabinet note the outcome of the evaluation stage of the Development and Regulatory Services project and accept Capita Symonds' final tender (including subsequent clarifications) as the preferred bid, with reference to the Full Business Case (Appendix A), Equalities Impact Assessment (Appendix B), List of Principal Legislation (Appendix C) and Evaluation Scores (Appendix D exempt);
 - Cabinet instruct the officers to take all necessary action to complete the formalities for the finalisation and execution of the contract; and
 - That Cabinet approve the formation of a Joint Venture Company with Capita Symonds Ltd and instruct officers to take all necessary actions.
- 2.2 Cabinet, 18 July 2013 – item 6 agreement of the formation of a company limited by shares wholly owned by the Council to be created as part of the partnership arrangements for Development and Regulatory Services.
- 2.3 Council 16 July 2013 – item 4.6 appointment of representatives to the Joint Venture Company (JVCo) and holding company (Newco)

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The overriding purpose of the Governance System review is to ensure that the Council's decision making structures operate in a way that best enables the Council to deliver its objectives set out in the Corporate Plan.
- 3.2 In addition the Corporate Plan 2013/16 has defined the following objectives:
 - Promote responsible growth, development and success across the borough;
 - Support families and individuals that need it – promoting independence, learning and well-being; and
 - Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study.
- 3.3 The JVCo supports the corporate plan aims by: protecting a good environment through maintaining all existing service standards in an era of significant financial reductions; and encouraging growth by introducing new technology, skills and commercial ideas to encourage and support sustainable growth in the borough.

- 3.3 Closer working with other service providers including Barnet Homes, the police and health authority in addition to the business sector and the community is key to the successful delivery of JVCo as are accelerating the regeneration programme and encouraging healthier and independent lifestyles

4. RISK MANAGEMENT ISSUES

- 4.1 The process of managing the change of governance system through the Constitution Ethics and Probity ensures that the proposals developed meet the needs of key stakeholders, and minimises the risk that the system may not achieve the desired outcomes determined at the start of the project.

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. This review of the Governance system will help ensure that this is the case and ensure the Council is meeting its equality obligations.
- 5.2 An extensive Equalities questionnaire was included within the first phase of Consultation of the change in system of governance and an analysis has been undertaken of different responses from relevant groups.

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

- 6.1 To change the constitution is cost neutral – there is no impact on cost expected from making these changes to the Constitution.

7. LEGAL ISSUES

- 7.1 None in the context of the report.

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

- 8.1 The Council's Constitution, Responsibility for Functions outlines the Committee responsibilities, which includes to "proactively to review and keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council"

9. BACKGROUND INFORMATION

- 9.1 At its meeting on 24 June 2013 Cabinet approved the formation of a joint venture company (JVCo) with Capita Symonds Limited in order to deliver Development and Regulatory Services. This JVCo is known as Re. The Council retains a 49% shareholding in the JVCo, through a new holding company (Barnet Holdings Limited known as NewCo).
- 9.2 Barnet Holdings Limited was incorporated on the 31st July 2013 under the Memorandum and Articles of Association, it is the shareholder who appoints the directors. In this case the shareholder is full Council and the Chief Executive and the Leader of the Council were appointed Directors of NewCo

by Council on 16 July 2013. At the same time they were also appointed Directors to the JVCo Board. The Joint Venture agreement limits the authority given to the Newco Directors with the intention of ensuring that no major decisions are taken without explicit authority from the Council.

- 9.3 The decision making arrangements of the JVCo are set out in the Articles of Association and the Joint Venture Agreement. In broad terms the Council's input into decision making will operate at two levels - as a shareholder of the JVCo; and at an operational level through the appointment of two unremunerated directors to be part of the board of JVCo.
- 9.4 All board meetings of JVCo will require the presence of a NewCo (Council) director in order to be quorate. All decisions of the board of directors will be made by resolution with the exception of "Reserved Matters" that will require the prior written consent of each of Capita Symonds Limited and NewCo (the Council). According to the contract "where such Reserved Matters (or any other decision) is beyond the delegated authority of the (Council) directors, the matter will revert to Cabinet for direction".
- 9.5 The list of reserved matters from the JV agreement are set out in Appendix A
- 9.6 As Cabinet will no longer exist under the new governance arrangements post 2nd June 2014 the consent to agree any reserved matter except for item 8.1.31 (agreement not to pursue a bid) will need to be decided by one of the new Committees and it is suggested that the responsibility be given to the Policy and Resources Committee. As a result it has been proposed that this be added to the terms of reference of the Policy and Resources Committee Terms of Reference as item 10 of the specific responsibilities (Appendix C).
- 9.7 Under certain circumstances, Clauses 18.3 and 18.4 of the JV agreement shown in Appendix B, the Council is obliged to give agreement to the JVCo not to bid as soon as reasonably possible and in any event within 5 Business Days. Due to this contractual timescale, it is therefore suggested that this specific task is delegated to the Strategic Director Growth & Environment in consultation with the Chairman of Policy & Resources Committee and a summary of such decisions be presented to the next Policy and Resources Committee for information.

10. LIST OF BACKGROUND PAPERS

- 10.1 Appendix A – list of matters that require the consent of each of the Shareholders
- 10.2 Appendix B – Clauses 18.3 & 18.4 of JV Agreement
- 10.3 Appendix C – Constitution amendments

Cleared by Finance (Officer's initials)	
Cleared by Legal (Officer's initials)	CA

8 Matters requiring the consent of each of the Shareholders

- 8.1 Each Shareholder shall take all such steps and do all such acts and things as may be necessary or desirable, including, without limitation, exercising all voting and other rights and powers of control available to it in relation to the Company, so as to procure (insofar as it is able to do so by the exercise of those rights and powers) that at all times during the term of this Agreement no action shall be taken or resolution passed by the Company or any Group Member in relation to the Company in respect of any of the following matters except with the prior written consent of each of CSL and Newco:
- 8.1.1 vary in any respect its articles of association or the rights attaching to any of its shares; or
 - 8.1.2 permit the registration (upon subscription or transfer) of any person as a member of the Company other than the parties in respect of their initial investment and/or any permitted transferees; or
 - 8.1.3 increase the amount of its issued share capital except as provided in this agreement, grant any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, redeem or purchase any of its own shares or effect any other reorganisation of its share capital; or
 - 8.1.4 issue any loan capital or enter into any commitment with any person with respect to the issue of any loan capital; or
 - 8.1.5 make any borrowing other than from its bankers in the ordinary and usual course of business and it shall ensure that its banking facilities do not enable it to have more than £1,000,000 in aggregate borrowed at any one time; or
 - 8.1.6 apply for the listing or trading of any shares or debt securities on any stock exchange or market; or
 - 8.1.7 pass any resolution for its winding up or present any petition for its administration (unless it has become insolvent); or
 - 8.1.8 engage in any business other than as contemplated by the Business Plan or defray any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
 - 8.1.9 form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
 - 8.1.10 close down any business operation or dispose of or dilute its interest in any of its Subsidiaries for the time being; or
 - 8.1.11 amalgamate or merge with any other company or business undertaking; or

- 8.1.12 alter its name or registered office; or
- 8.1.13 enter into any transaction or arrangement of any nature whatsoever with any of the Company's members or directors or any person who is connected (within the meaning of sections 1122 and 1123 of the Corporation Tax Act 2010) to any of its members or directors whether or not any other person shall be party to such transaction or arrangement; or
- 8.1.14 enter into any commitment by way of a transaction or series of related transactions (including without limitation any leasing transaction) with any Group Member which would involve the Company in the payment or receipt of consideration having an aggregate value in excess of £100,000 (one hundred thousand pounds) which has not otherwise been specifically referred to in any approved Business Plan; or
- 8.1.14A enter into any commitment by way of a transaction or series of related transactions (including without limitation any leasing transaction) which would involve the Company in the payment or receipt of consideration having an aggregate value in excess of £500,000 (five hundred thousand pounds) which has not otherwise been specifically referred to in any approved Business Plan;
- 8.1.15 enter into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms; or
- 8.1.16 give notice of termination of any arrangements, contracts or transactions outside of the ordinary course of business, or materially vary any such arrangements, contracts or transactions; or
- 8.1.17 without prejudice to any other provision of this clause:
- (a) enter into, as lessor or as lessee, any operating lease (as defined in Statement of Standard Accounting Practice 21) for a duration exceeding five years or involving aggregate premium and annual rental payments in excess of £50,000 (fifty thousand pounds); or
 - (b) grant any rights (by licence or otherwise) in or over any intellectual property owned or used by the Company; or
 - (c) create or permit to be created any mortgage, charge, encumbrance or other security interest whatsoever on any material asset or its business in whole or in part or any of its shares; or
- 8.1.18 adopt or amend its annual Business Plan, or enter into any contract or commitment not provided for in the Business Plan under which it may incur costs in excess of £50,000 (fifty thousand pounds), or which may not be fulfilled or completed within the period of one year; or
- 8.1.19 change either:
- (a) its auditors; or

- (b) its financial year end; or
 - (c) make or permit to be made any material change in the accounting policies and principles adopted by the Company in the preparation of its audited accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom; or
- 8.1.20 declare or pay any dividend that exceeds in any year 100% of its post-tax distributable profits as shown by the audited accounts for that year, or make any other distribution (by way of capitalisation, repayment or in any other manner) out of its distributable profits or any of its reserves; or
- 8.1.21 make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading) or give any guarantee (other than in the normal course of trading) or indemnity; or
- 8.1.22 give any guarantee, suretyship or indemnity to secure the liability of any person or assume the obligations of any person; or
- 8.1.23 factor or assign any of the book debts of the Company; or
- 8.1.24 establish or amend any profit-sharing, share option, bonus or other incentive scheme of any nature for directors, officers or employees except for employed directors where any bonus scheme cannot exceed 50% in value of the base salary and for other selected employees where any bonus scheme cannot exceed 30% of the base salary (in either case when taking base salary and bonus together not to exceed the figure in clause 8.1.27); or
- 8.1.25 establish or amend any pension scheme or grant any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family; or
- 8.1.26 dismiss any director, officer or employee in circumstances in which it incurs or agrees to bear redundancy or other costs in excess of £150,000 (one hundred and fifty thousand pounds) in total; or
- 8.1.27 agree to remunerate (by payment of fees, the provision of benefits-in-kind or otherwise) or to increase the remuneration of any employee, officer of or consultant to the Company in excess of £200,000 (two hundred thousand pounds); or
- 8.1.28 institute, settle or compromise any material legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submit to arbitration or alternative dispute resolution any dispute involving the Company; or
- 8.1.29 make any agreement with any revenue or tax authorities or make any claim, disclaimer, election or consent exceeding £100,000 (one hundred

thousand pounds) for tax purposes in relation to the Company or its business and which could be interpreted (in the sole opinion of any shareholder) as a tax avoidance scheme; or

- 8.1.30 make any political or charitable donations or grant any sponsorship of any political or charitable organisation; or
 - 8.1.31 agree not to pursue a bid for or to enter a contract for services under clause 18.4 of this Agreement.
- 8.2 Each of the shareholders and the Company shall procure that no Subsidiary takes any action which would constitute a breach of any of the above provisions as if any reference in this clause (express or implied) to the Company were construed as a reference to each Subsidiary for the time being.
- 8.3 The agreement of Newco to any of the matters referred to in clause 8.1 shall be evidenced by the signature of Newco (or its authorised signatory) on the resolution approving the matter in question.
- 8.4 Each Shareholder undertakes to the other Shareholder that it will notify the other Shareholder (immediately following receipt of such offer or approach by it) of details of any written offer or informal approach from any third party for the whole or any part of the issued share capital of the Company (or for the whole or a substantial part of the undertaking or assets of the Company or any Subsidiary Undertaking of the Company). No negotiations with regard to the sale of the whole or any part of the issued share capital of the Company (or for the whole or a substantial part of the undertaking or assets of the Company or any Subsidiary Undertaking of the Company) shall be conducted without the prior written consent of each of the Shareholders.
- 8.5 Newco agrees that it shall determine whether it consents to a matter under clause 8.1.31 of this clause as soon as reasonably possible and in any event within 5 Business Days.

18.3 Notwithstanding the restrictions set out in clause 18.1 and 18.2, Newco and the Company acknowledge and agree that CSL shall (subject to clause 8) be entitled to pursue any contract for services opportunity in the market place that may arise from time to time provided that:

18.3.1 the contract for services is of a total value of below £50,000 and is not identified in the Commercial Development Plan; or

18.3.2 the contract for services opportunity has been evaluated under the Opportunity Assessment Process as not appropriate for the Company to pursue; or

18.3.3 the contract for services is a Competing Arrangement (provided that the contract for services opportunity identified in Schedule 3 has been advertised in the Official Journal of the European Union (OJEU) prior to the date which expires three months after the date of this Agreement).

18.4 If clause 18.3.2 applies or if the Company determines that it will not bid or enter into a contract for services notwithstanding its right to do so in preference to CSL in accordance with this clause 18 and Newco has notified its consent to such in accordance with clause 8.5, the Company shall notify CSL of its decision forthwith.

Policy and Resources Committee Terms of Reference

Body responsible	Functions	Membership												
Policy and Resources	<p>(1) To be the principal means by which advice on strategic policy and plans is given and co-ordinated and to recommend to Full Council, as necessary, on strategic issues. This is to include:</p> <ul style="list-style-type: none"> • Approval of the Corporate Plan • Council's Capital and Revenue Budget setting (subject to Full Council) and Medium Term Financial Strategy • Ensuring effective Use of Resources and Value for Money <p>(2) To be responsible for the overall strategic direction of the Council including the following specific functions/activities:</p> <table border="1" data-bbox="475 909 1106 1944"> <tbody> <tr> <td data-bbox="475 909 794 1077"> <ul style="list-style-type: none"> • Customer Care, Communications and Resident Engagement </td> <td data-bbox="794 909 1106 1077"> <ul style="list-style-type: none"> • Strategic Partnerships </td> </tr> <tr> <td data-bbox="475 1077 794 1352"> <ul style="list-style-type: none"> • Equalities, Diversity and Community Cohesion </td> <td data-bbox="794 1077 1106 1352"> <ul style="list-style-type: none"> • Local Development Framework and associated documents (for adoption by Full Council) </td> </tr> <tr> <td data-bbox="475 1352 794 1520"> <ul style="list-style-type: none"> • Internal Transformation programmes </td> <td data-bbox="794 1352 1106 1520"> <ul style="list-style-type: none"> • Local Taxation-Billing, Collection and Recovery </td> </tr> <tr> <td data-bbox="475 1520 794 1576"> <ul style="list-style-type: none"> • Write off of debt </td> <td data-bbox="794 1520 1106 1576"> <ul style="list-style-type: none"> • Insurance </td> </tr> <tr> <td data-bbox="475 1576 794 1744"> <ul style="list-style-type: none"> • Treasury Management Strategy and Activity </td> <td data-bbox="794 1576 1106 1744"> <ul style="list-style-type: none"> • Information Technology provision </td> </tr> <tr> <td data-bbox="475 1744 794 1944"> <ul style="list-style-type: none"> • Housing Benefit, Council Tax Support and Welfare programmes </td> <td data-bbox="794 1744 1106 1944"> <ul style="list-style-type: none"> • Health and Safety • Mayoralty budget </td> </tr> </tbody> </table> <p>(3) To submit recommendations to the</p>	<ul style="list-style-type: none"> • Customer Care, Communications and Resident Engagement 	<ul style="list-style-type: none"> • Strategic Partnerships 	<ul style="list-style-type: none"> • Equalities, Diversity and Community Cohesion 	<ul style="list-style-type: none"> • Local Development Framework and associated documents (for adoption by Full Council) 	<ul style="list-style-type: none"> • Internal Transformation programmes 	<ul style="list-style-type: none"> • Local Taxation-Billing, Collection and Recovery 	<ul style="list-style-type: none"> • Write off of debt 	<ul style="list-style-type: none"> • Insurance 	<ul style="list-style-type: none"> • Treasury Management Strategy and Activity 	<ul style="list-style-type: none"> • Information Technology provision 	<ul style="list-style-type: none"> • Housing Benefit, Council Tax Support and Welfare programmes 	<ul style="list-style-type: none"> • Health and Safety • Mayoralty budget 	<p>12, Chairman and Vice Chairman to be appointed by Council. Committee to be made up in accordance with proportionality.</p>
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	<p>Council in the event of a difference of opinion arising between committees upon a matter which falls within the terms of reference of more than one committee.</p> <p>(4) To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.</p> <p>(5) To consider and take any necessary action upon proposals for new legislation, Bills before Parliament, Acts of Parliament and other proceedings before Parliament affecting or likely to affect the interests of the Borough or its inhabitants generally where not the specific concern of any other committee(s). The promotion of Bills and Provisional and Statutory Orders in Parliament shall be dealt with by the Council.</p> <p>(6) Approve the budget, business plan and Annual Report of the Barnet Group Ltd</p> <p>(7) To allocate a budget, as appropriate, for Area Sub-Committees and agree a framework for governing how that budget may be spent.</p> <p>(8) To represent Barnet's strategic interests in dealings with sub-regional, regional and national Government and influence relevant tiers of Government</p> <p>(9) To consider petitions that contain between 2000 and 6999 signatures in accordance with Public Participation Procedure rules.</p> <p><u>(10) To consider reserved matters of the JVCo</u></p> <p>If any report comes within the remit of more than one committee, to avoid the report being discussed at several committees, the report will be presented and determined at the most appropriate committee. If this is not clear, then the report will be discussed and determined by the Policy and Resources Committee.</p>	
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Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	Cleared

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