

MEETING

CONSTITUTION AND GENERAL PURPOSES COMMITTEE

DATE AND TIME

TUESDAY 9TH APRIL, 2019

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

**TO: MEMBERS OF CONSTITUTION AND GENERAL PURPOSES COMMITTEE
(Quorum 3)**

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

Councillor Geof Cooke Councillor Richard Cornelius Councillor Alison Moore
Councillor Barry Rawlings Councillor Sarah Wardle

Substitute Members

Councillor Anthony Finn Councillor Ross Houston Councillor Ammar Naqvi
Councillor Sachin Rajput Councillor Alan Schneiderman Councillor Peter Zinkin

In line with the Constitution's Public Participation and Engagement Rules, requests to submit public questions or comments must be submitted by 10AM on the third working day before the date of the committee meeting. Therefore, the deadline for this meeting is Thursday, 4 April 2019 at 10AM. Requests must be submitted to maria.lugangira@barnet.gov.uk

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

Andrew Charlwood – Head of Governance

Governance Service contact: Maria Lugangira 020 8359 2761

Media Relations Contact: Gareth Greene 020 8359 7039

ASSURANCE GROUP

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ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	5 - 8
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Report of the Monitoring Officer (if any)	
5.	Public Question and Comments (if any)	
6.	Members Item (if any)	
7.	Any item(s) that the Chairman decides is urgent	
8.	Constitution Review	9 - 96
9.	Local Government Boundary Commission for England - Electoral Review of Barnet Council - Draft Recommendations	97 - 148
10.	Local Government & Social Care Ombudsman (LGSCO) and Housing Ombudsman Summary of Upheld Complaints report - 2018/2019	149 - 174
11.	Campaign for Freedom of Information - Report on FOI good practice in London Boroughs	175 - 224
12.	Committee Forward Work Programme	225 - 228
13.	Any item(s) that the Chairman decides is urgent	

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Decisions of the Constitution and General Purposes Committee

17 January 2019

Members Present:-

AGENDA ITEM 1

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

Councillor Geof Cooke Councillor Sarah Wardle
Councillor Richard Cornelius Councillor Ammar Naqvi (In place of
Councillor Barry Rawlings Councillor Alison Moore)

Apologies for Absence

Councillor Alison Moore

1. MINUTES

RESOLVED that the minutes of the Committee held on 22nd October 2018 be approved as a correct record.

2. ABSENCE OF MEMBERS

An apology for absence was received from Councillor Alison Moore, Councillor Ammar Naqvi was substituting.

3. DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS

None.

4. REPORT OF THE MONITORING OFFICER (IF ANY)

None.

5. PUBLIC QUESTION AND COMMENTS (IF ANY)

Details of the questions asked and the published answers were provided with the agenda papers for the meeting. As the original questioner (Mr John Cox) was not present at the meeting there were no supplementary questions to respond to.

A public comment as made by Mr John Dix on Item 7, Senior Management Restructure.

6. MEMBERS ITEM (IF ANY)

None.

7. SENIOR MANAGEMENT RESTRUCTURE

The Chief Executive and Head of Paid Service, introduced the report which set out proposed changes to the council senior management structure and some senior management roles. He explained that the changes are expected to deliver a spend reduction of £1.0m a budget reduction of £0.74 in 19/20.

To clarify and confirm the assimilation arrangements he tabled the following additional recommendation:

That the Committee agree to assimilate all current Chief Officers (those reporting directly to the Chief Executive) into the revised posts as detailed in the report and to upgrade and assimilate the current Director of Assurance into the revised post as detailed in the report.

Upon being put to the vote the above recommendation and the recommendations as set out in the report were agreed. The vote was recorded as follows:

For	4
Against	0
Abstain	3

RESOLVED –

- 1. The Committee approve the proposed changes to the senior management roles and structure, to take effect by 1 April 2019.**
- 2. The Committee note that a 30-day consultation has been undertaken with the current senior management across the Council. A summary of the feedback from this is included within the report.**
- 3. The Committee delegate authority to the Chief Executive to agree redundancy payments for the roles identified at risk (subject to the scheme of financial delegation).**
- 4. That the Committee agree to assimilate all current Chief Officers (those reporting directly to the Chief Executive) into the revised posts as detailed in the report and to upgrade and assimilate the current Director of Assurance into the revised post as detailed in the report.**

8. FORMAL CONSULTATION ON THE PROPOSALS FOR THE RESTRUCTURE OF ADULT SOCIAL CARE SERVICES IN BARNET COUNCIL

Helen Davies, UNISON addressed the Committee and provided the summary of UNION'S response to the consultation and their recommendations.

The Executive Director Adults and Health presented the report which detailed the proposed changes to the staffing structure of adult social care following consultation with staff and the trade unions.

Upon being put to the vote the recommendations as set out in the report were agreed. The vote was recorded as follows:

For	4
Against	3
Abstain	0

RESOLVED –

1. The Committee approve the proposed changes to the adult social care staffing structure to take effect by 1 April 2019.
2. The Committee note formal consultation has been undertaken with a summary of the feedback from this is included within the report.
3. The Committee delegate authority to the Executive Director Adults and Health to agree redundancy payments for the roles identified at risk (subject to the scheme of financial delegation).

9. PAY POLICY STATEMENT

The Strategic HR Director presented the report on LBB Pay Policy Statement.

RESOLVED – That the Committee recommends that council approve the Pay Policy Statement (Appendix A) on 29 January 2019.

10. CONSTITUTION REVIEW

The Monitoring Officer presented the report.

RESOLVED –

1. That the Committee recommend to Council that the Constitution be amended to incorporate the changes set out in the report and the amended versions attached at Appendix A, subject to the following amendment to the terms of reference of Theme Committees and Planning Committee (Article 7);
 - To ~~consider~~ recommend for approval fees and charges for those areas under the remit of the Committee.

11. ANNUAL ELECTORAL REGISTRATION REPORT 2018

The Head of Electoral Services presented the report which provided the Committee with an overview on the status of the Register of Electors in Barnet as at 1 December 2018 and on the work done by officers on behalf of the Council's Electoral Registration Officer.

Councillor Cooke raised a query regarding the publication date of the draft recommendations for new Ward Patterns. He stated that according to the Local Government Boundary Commission for England (LGBCE) website, the date is 5th March 2019, whilst the date reported on page 67 of the report is 5th February 2019. The Head

of Electoral Services confirmed he would seek clarification and confirm the correct date with the Committee **[ACTION]**

RESOLVED – That the Constitution and General Purposes Committee considers and comments on the annual Electoral Registration report.

12. ANNUAL INTERIM REVIEW OF POLLING DISTRICTS AND POLLING PLACES

The Head of Assurance and Business Development presented the report which informed the Committee on the arrangements being proposed by the London Borough of Barnet's Returning Officer for polling districts and polling places (and includes a proposal to change one polling place) to be used at all statutory future elections and referendums that take place within the borough.

RESOLVED -

- 1. That the Committee approve all polling place arrangements as proposed by the Returning Officer and laid out in Appendixes A, B and C.**
- 2. That the Committee give approval for officers to undertake the next statutory full review of polling districts and polling places between 1 July 2019 and 31 January 2020.**

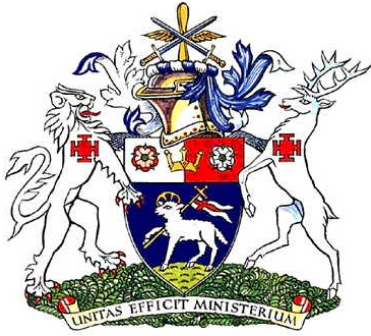
13. COMMITTEE FORWARD WORK PROGRAMME

The Committee noted the Forward Work Programme.

14. ANY ITEM(S) THAT HE CHAIRMAN DECIDES IS URGENT

None.

The meeting finished at 8.08 pm



Constitution and General Purposes Committee

9 April 2019

Title	Constitution Review
Report of	Monitoring Officer Head of Governance
Wards	Not Applicable
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Article 2 (Tracked) Appendix B – Article 3 (Tracked) Appendix C – Article 7 (Tracked) Appendix D – Article 9 (Tracked) Appendix E – Article 11 (Tracked) Appendix F – Contract Procedure Rules (Tracked) Appendix G – Full Council Procedure Rules (Tracked)
Officer Contact Details	Andrew Charlwood, Head of Governance, 020 8359 2014, andrew.charlwood@barnet.gov.uk

Summary

Following the comprehensive review of the Constitution which was completed in May 2018 a number of housekeeping amendments are proposed as set out in the report and appendix.

Officers Recommendation

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

1. WHY THIS REPORT IS NEEDED

- 1.1 The terms of reference Committee include responsibility to “proactively to review and keep under review all aspects of the Council’s Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council”.
- 1.2 Detailed changes and the reason for them are as set out in the table below:

No.	Section	Reference	Issue Identified	Changes Proposed
1.	<p>Article 3 (Residents and Public Participation); and</p> <p>Article 7 (Committees, Forums, Working Groups and Partnerships)</p>	<p>Section 3.5; and</p> <p>Terms of Reference of Constitution & General Purposes Committee</p>	<p>Section 3.5 of Article 3 states:</p> <p>“Public questions and comments are not permitted:</p> <p>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.”</p> <p>The terms of reference of the Constitution & General Purposes Committee (the successor body to the General Functions Committee) have removed references to trade unions having the right to address the committee on staffing matters. It is recommended that a mechanism to enable trade union representation at the committee is reinstated.</p> <p>The following wording was included in a previous iteration of the Constitution:</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>Amend Article 3 to change ‘General Functions Committee’ to ‘Constitution & General Purposes Committee’</p> <p>Amend Article 7 to add to the Terms of Reference of Constitution & General Purposes Committee:</p> <p>“When considering a report on staffing matters, a representative of the trade unions may submit a request to speak which requires the consent of the Chairman, or be questioned by the Committee before a decision is made. Each representative will have up to 3 minutes to address the committee.”</p>

2.	Article 7 (Committees, Forums, Working Groups and Partnerships)	Section 3.5	<p>Section 3.5 of Article 3 includes the following restrictions:</p> <p>“Public questions and comments are not permitted:</p> <ul style="list-style-type: none"> • If they don’t relate to a substantive item on the agenda • 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 would result in the release of confidential information, or which may prejudice enforcement. • If they relate to a matter where there is a right of appeal against any decision of the Council. <p>The Chairman of the relevant Committee or Sub-Committee, in consultation with the Head of Governance, shall decide whether any particular question, comment or issue will be permitted.”</p> <p>Some restrictions from previous iterations of</p>	<p>Amend section 3.2 to delete “At the meeting a time period of up to 30 minutes is available for public questions and comments in total” as this is repeated in section 3.4.</p> <p>Add to section 3.2 “Questions must be addressed to the committee.”</p> <p>Amend section 3.3 to add: “Residents should state their address when submitting a request to make a comment.”</p> <p>Amend section 3.5 to add: “Residents should state their address when submitting a forum issue.”</p> <p>Add to the following restrictions to the section titled Public questions and comments are not permitted:...</p> <ul style="list-style-type: none"> • If they have been submitted by someone who has been deemed to be subject to the Unreasonably Persistent Complainants Policy; • If they are received from people who are not Barnet residents; • At the Planning Committee and Area Planning Committees on Town and Country Planning applications (a separate procedure is detailed in section 3.7). Public questions and comments are permitted at the Planning Committee on planning policy matters;
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			<p>the Constitution have been removed. It is recommended that they be reinstated as the Governance Service have received several challenges from residents regarding the validity of questions at various committees since the restrictions were deleted as follows:</p> <ul style="list-style-type: none"> • Questions received from someone deemed to be an unreasonably persistent complainant regarding the same issue that had been fully investigated and the complaint closed; • Questions received from people who live out of borough. Whilst sections 3.1 – 3.3 refer to residents, officers consider that an explicit restriction would provide clarity. 	<ul style="list-style-type: none"> • 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.
3.	Article 3 (Residents and Public Participation)	Section 3.7	<p>Under current speaking arrangements for planning committees, requests to speak at committee are made to the Planning team and not the Governance Service. It is recommended that the wording be amended in section 3.7 to reflect that so that there is clarity for residents in respect of speaking arrangements.</p>	<p>Amend Article 3 as follows:</p> <p>“Requests to speak about an application on the planning committee agenda should be submitted to the relevant Governance Planning Case Officer by 10am on the third working day prior to the meeting.”</p>

4.	Full Council Procedure Rules	Sections 18.7 – 18.8	<p>A provision for public questions to the Leader at Full Council has been in-situ for several years. There have been no public questions to the Leader at an ordinary council meeting since this provision was added. It is therefore recommended that this provision be deleted.</p>	<p>Delete the following provision:</p> <p>“Public Questions to the Leader of the Council</p> <p>18.7 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 in writing, including 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 and subject to the six-month rule • 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>18.8 Every question will be answered in writing. The Leader may decline to answer a question in exceptional circumstances and should include the reason for not answering the question. Any questions not answered will be directed to the next relevant meeting of the themed committee.</p>
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5.	Article 9 (Chief Officers)	Section 9.01	Council on 29 January 2019 approved the addition of a section to detail certain statutory non-chief officers in Article 9. A further post of Virtual Head Teacher needs to be added as this is a statutory post.	Amend section (d) to add: “Virtual Head Teacher”
6.	Article 10 (Decision Making) and Contract Procedure Rules	Table B – Authorisation and Acceptance Thresholds	<p>Article 10 and the Contract Procedure Rules require variations and acceptance of contracts with the following values to be approved by the relevant thematic committee:</p> <ul style="list-style-type: none"> • £181,302 – £500,000; and • £500,000 and above <p>Requiring contract variations or acceptance to be agreed by a theme committee is unnecessary as the principal decision is the authorisation to procure. It is recommended that the acceptance criteria for the following thresholds be changed to:</p> <p>£181,302 – £500,000:</p> <ul style="list-style-type: none"> ➤ If within Budget – Full DPR ➤ If not within Budget – Relevant Thematic Committee; and <p>£500,000 and above</p> <ul style="list-style-type: none"> ➤ If within Budget- Full DPR (Chief Officer in consultation with Theme Committee Chairman) ➤ If not within Budget – Relevant Thematic Committee 	Refer to Table 1 below

7.	Contract Procedure Rules	Various	<p>The Contract Procedure Rules in various places refer to the Director of Commercial Services. A new senior management structure will be live from 1st April 2019 and the title of the relevant post will change to Director of Commercial & ICT Services. References in the Rules need to be amended accordingly.</p>	<p>Delete references to the Director of Commercial Services and replace with Director of Commercial & ICT Services.</p>
8.	Article 2	Section 2.3 (h)	<p>The Members Planning Code of Practice states:</p> <p>3.2 Where a Member has a pecuniary interest relating to an item under discussion, the Councillor may not participate in any discussion of the matter at the meeting or participate in any vote on the matter. There is no obligation for that Councillor to withdraw from the Chamber although this is advisable so that it is transparently clear that the Member concerned has not taken part in the determination of this particular item. This also means that a Councillor with a pecuniary interest is precluded from making representations orally to the committee, either as a Councillor or in a private capacity, and precluded from making representations on behalf of a party to the hearing.</p> <p>3.3 A Councillor with a pecuniary interest can still present their views to the committee through other means:</p>	<p>Amend section 2.3 (h) to add the highlighted wording: “Members may only address a planning committee on applications which affect their ward, <i>unless they have a pecuniary interest in which case they are precluded.</i>”</p>

			<ul style="list-style-type: none"> • make written Representations to officers; the existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations; • arrange for another Member to represent the views of the Councillor's constituents. <p>Article 2 (Members of the Council) currently states:</p> <p>“Members may only address a planning committee on applications which affect their ward.”</p> <p>It is recommended that the wording highlighted is added to ensure that there is a clear link between the Article and the Code of Practice.</p>	
9.	Article 7 (Committees, Forums, Working Groups and Partnerships)	Terms of Reference of the Safer Communities Partnership Board	Officers have requested that CommUNITY Barnet remain a partner on the Safer Communities Partnership Board and are listed in the membership column as a partner.	Amend the partner membership list for the Safer Communities Partnership Board to include CommUNITY Barnet.

10.	Council Procedure Rules	Section 17 – Rules of Debate	Section 17.7 currently states that the “Each of the first speakers from each Group under Rule 20.2 may speak for a maximum of 5 minutes. All subsequent speakers will be limited to a maximum of 4 minutes.” This rule refers to Part 3 (Statutory Council Business) and Part 4 (Business for Debate) of the Council meeting. In practice, time for debate on Statutory Council Business is allocated depending on the relative significance of the item to be considered. In relation to Business for Debate, time has recently been allocated as 3 minutes for the first speaker and 2 minutes for each subsequent speaker.	No changes are recommended or proposed, but the Committee are requested to consider whether to amend section 17.7 or whether to reinstate the timings for speakers back to 5 minutes and 4 minutes. It should be noted that any increase in the time allocated to each speaker is likely to reduce the number of potential speakers on each report or motion.
11.	Article 2 (Members of the Council (Councillors)) and Article 7 (Committees, Forums, Working Groups and Partnerships)	Section 2.3 (g); and Terms of Reference of Area Planning Committees	Section 2.3 (g) currently states that ‘...where an application is recommended for approval...’ that Members are able to call-in an application for determination by a planning committee. It has been identified that Members have in practice been calling-in applications that are recommended for both approval and refusal (rather than just approval). It is recommended that the Constitution is amended to reflect this.	Amend the wording in Article 2, Section 2.3 (g) to delete the struck-through wording and add the wording in bold italics: Amend Article 2, Section 2.3 (g) as follows: “ <u>Members Rights to Call-in Planning Applications</u> Where an application is recommended for approval or refusal , Members have the right to ‘call-in’ an application which affects their ward for determination by a planning committee. A relevant planning consideration must be identified when calling-in the application.” Amend the wording in Article 7 within the terms of reference of the Area Planning Committees: Where the recommendation is for approval and :

				<p>a. approval and there is significant local public objection (defined as 5 or more objectors who have objected in writing in response to a planning application)</p> <p>b. approval or refusal and there is a Councillor referral of an application which affects their Ward which that Member has ‘called-in’ to committee identifying a planning consideration.</p>
12.	Article 7 (Committees, Forums, Working Groups and Partnerships)	Terms of Reference of Area Planning Committees	Barnet has a relatively low threshold for the number of objections which trigger an application being referred to committee for determination. Consequently, two out of the three area planning committees usually have a high volume of planning applications to be determined. For example, the Finchley & Golders Green Area Planning Committee regularly receives between 10 and 20 applications per meeting. It is proposed that the threshold be increased from 5 to 10 objections.	<p>Amend the wording in Article 7 as follows:</p> <p>“a. there is significant local public objection (defined as 5 10 or more objectors who have objected in writing in response to a planning application)</p> <p>b. there is a Councillor referral of an application which affects their Ward which that Member has ‘called-in’ to committee identifying a planning consideration.</p>
13.	Article 11 – Finance, Contracts, and Legal Matters	Sections 11.3, 11.4 and 11.5	The Article refers to the Assistant Chief Executive and this post will be deleted as part of the Senior Management Review which will be implemented on 1 April 2019. The responsibilities have been subsumed into the remit of the Director of Assurance and the Constitution should be amended accordingly.	In sections 11.3, 11.4 and 11.5 delete references to ‘Assistant Chief Executive’ and replace with ‘Director of Assurance’

14.	<p>Article 2 (Residents and Public Participation)</p> <p>Article 7 (Committees, Forums and Working Groups)</p>	Article 2, Section 3.5 (Issues for Residents Forums)	<p>Previous iterations of the Constitution have included a 'six-month rule' which prevents Members submitting Members Items to committees or asking Questions to the Leader at Full Council. Members have requested that the six-month rule be reinstated. It is suggested that a new section be added to Article 7 which states: "The Six-Month Rule shall apply whereby matters dealt with cannot be raised again within this period."</p> <p>The Committee are requested to note that the six-month rule is already in place in relation to residents forum issues as below: "The Six-Month Rule shall apply whereby matters dealt with cannot be raised again within this period. The Six-Month Rule means that Residents Forum will not reconsider any issues discussed at a resident's forum or any decision taken by a committee in the six months preceding the date of the forum."</p>	<p>Add to Article 7 a section titled:</p> <p>"The Six-Month Rule</p> <p>The Six-Month Rule shall apply whereby matters dealt with cannot be raised again within this period."</p>
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Table 1

	Procurement value	Authorisation to commence a procurement process & Documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
A	Under £10,000 (Purchase Order)	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail	Reasonable means of selection* and evidence of having sourced and considered the local Barnet supplier market	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail	Must move to next threshold if £10,000 or above Authorisation documentation: Audit trail	Purchase Order
B	£10,000 – £50,000	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought**	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Chief Officer List of Decisions	Must move to next threshold if above £50,000 Authorisation documentation: Chief Officer List of Decisions	Purchase Order Signed contract over £25k value

	Procurement value	Authorisation to commence a procurement process & documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
C	£50,001 – £181,301	Approved Officer Authorisation documentation: Chief Officer List of Decisions	Minimum 2 written quotations No SQ - Suitability Assessment Questions only	Approved Officer Authorisation documentation: Chief Officer List of Decisions	Chief Officer List of Decisions	Signed contract
D	£181,302 – £500,000	Chief Officer in consultation with Theme Committee Chairman Authorisation documentation: Full DPR (Chief Officer in consultation with Theme Committee Chairman) or Procurement Forward Plan	Services/Goods – OJEU Tender Works – Competitive Quotation	Chief Officer in consultation with Theme Committee Chairman Authorisation documentation: Full DPR	If within Budget – Relevant Thematic Committee If within Budget-Full (Chief Officer) DPR If not within Budget – Relevant Thematic Committee	Standstill Notification letter released following statutory officer report review Publication of report post standstill period Signed and sealed contract

	Procurement value	Authorisation to commence a procurement process & documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
E	<i>£500,000 and above</i>	<i>Authorisation documentation: Relevant Theme Committee Decision; or Procurement Forward Plan</i>	<i>Competitive quotation for works contracts for values £500,000 to £4,551,412 Works and Concession Contracts: Full OJEU Tender above £4,551,413 Goods: Full OJEU Tender Services: Full OJEU Tender Health, educational, cultural and social care related services: Light Touch Regime Tender above. £615,278)</i>	<i>Authorisation documentation: If within Budget- Full DPR (Chief Officer in consultation with Theme Committee Chairman) If not within Budget: Relevant Thematic Committee Report; or Policy and Resources Committee Report</i>	<i>If within Budget- Relevant Thematic Committee If within Budget- Full DPR (Chief Officer in consultation with Theme Committee Chairman) If not within Budget – Relevant Thematic Committee</i>	<i>Standstill Notification letter released following statutory officer report review Publication of report post standstill period Signed and sealed contract</i>

2. REASONS FOR RECOMMENDATIONS

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

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Committee could retain the current Constitution un-amended. This is not recommended as the Constitution needs to be kept under review to ensure that it complies with legislation and best practice.

4. POST DECISION IMPLEMENTATION

- 4.1 Subject to the committee's approval, the recommendations will form part of a report to Full Council on 21 May 2019 to make final approval.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

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

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

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

5.3 Social Value

- 5.3.1 None in the context of this decision

5.4 Legal and Constitutional References

- 5.4.1 Council's Constitution, Article 7 - the Constitution and General Purposes Committee terms of reference includes responsibility "To keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council".

5.5 Risk Management

- 5.5.1 The process of managing changes to the Constitution through the Constitution and General Purposes Committee ensures that the proposals are developed through Member participation and consideration.

5.6 **Equalities and Diversity**

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

5.7 **Corporate Parenting**

5.7.1 None in the context of this decision

5.8 **Consultation and Engagement**

5.8.1 None in context of this decision

5.8 **Insight**

5.8.1 None in the context of this decision.

6. **BACKGROUND PAPERS**

6.1 The currently adopted Constitution can be accessed here:
<http://barnet.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13581&path=0>

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Article 2 – Members of the Council (Councillors)

2.1 Composition and eligibility

- (a) **Composition:** The Council will comprise 63 Members, otherwise called Councillors. They will be elected by the voters of each Ward as defined by a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility:** Only registered voters of the Borough or those living or working there will be eligible to stand for the office of a Councillor.

2.2 Election and terms of office

The regular election of Members is held on the first Thursday in May every four years from 2002. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of all Members

(a) **Key roles**

- to participate constructively in the good government of the area;
- Contribute actively to the formation or scrutiny of the council's policies, budget, strategies and service delivery;
- to represent effectively the interests of the Ward for which he/she was elected and deal with their constituents' enquiries and representations.

(b) **Key tasks**

- fulfil the statutory and locally determined requirements of an elected Member of the Council including compliance with all relevant codes of conduct, and participation in those decisions and activities of the Full Council and its committees;
- participate in the area and service-based consultative processes with the community and with other organisations;
- represent the council to the community, and the community to the council, through the various forums available;
- develop and maintain a working knowledge of Barnet's services, activities and other factors which impact upon the community's wellbeing and identity;
- contribute constructively to open government and democratic renewal through active encouragement of the community to participate generally in the government of the area; and
- participate in the activities of any political group of which he/she is a member

- participate in training sessions made available to Members by the Council.

(c) **Access to Information**

- members will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and officers will keep Ward Members informed of matters relating to their Ward
- Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it;
- “confidential” and “exempt” information are defined in the Access to Information Rules set out in Part 2 of this Constitution.

(d) **Special Responsibilities**

Some Members have special responsibilities, additional to those of other Members, including:

- The Leader of a political group;
- Chairman and Vice Chairman of a council committee;
- The Chairman of some other council body;
- The Lead Member for Children’s Services.

(e) **Members’ Rights to Refer Matters to Parent Body**

Unless the matter is urgent three members of a committee or sub-committee may refer a key decision (for definition see below) to Council or parent committee but any such reference must be requested before the decision on the matter is made by the committee. The reasons for the referral must be stated. In making the referral, the committee or sub-committee can make recommendations to Council or parent committee. Non-key decisions, Members’ Items and reports to the Urgency Committee cannot be referred.

The Chairman or three Members of an Area Planning Committee may refer an item to the Planning Committee for determination by indicating before the vote is taken that they wish to refer the item and providing reasons for the referral.

A chairman of an area committee may refer applications to the area committee budget to the Environment Committee. The reasons for the referral must be stated. In making the referral, the chairman can make recommendations to Council or parent committee.

Key Decisions – a key decision is one which will result in the council incurring expenditure or savings of £500,000 or more, or is significant in terms of its effects on communities living or working in an area comprising two or more Wards.

(f) **Members' Items for the Agenda**

A Member (including Members appointed as substitutes by Council) 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. The matter must be relevant to the terms of reference of the committee. This rule does not apply to planning committee, area planning committees, urgency committee and licensing sub-committees. The referral of a motion from Full Council to a committee will not count as a Member's Item for the purposes of this rule.

The Head of Governance must receive written notice of a Member's Item, at least seven clear working days before the meeting.

The Lead Member for Children's Services is permitted to have one matter only (with no-sub items) on the agenda for a meeting of a Committee, Sub-Committee or Partnership Board on which s/he does not serve when that body is considering an item which relates to children and young people.

Any Member, within the Area Committee constituency, will be permitted to have one matter only (with no sub-items) on the agenda for an Area Committee where the Member is submitting a request for CIL funding to an Area Committee Budget. Members' Items for CIL funding Budget must be submitted 10 clear working days before the meeting. Items received after that time will only be dealt with at the meeting if the Chairman agrees they are urgent.

(g) **Members Rights to Call-in Planning Applications**

Where an application is recommended for approval or refusal, Members have the right to 'call-in' an application which affects their ward for determination by a planning committee. A relevant planning consideration must be identified when calling-in the application.

(h) **Member Requests to Speak at Planning Committees**

Members may only address a planning committee on applications which affect their ward unless they have a pecuniary interest in which case they are precluded. Members should give notice to the Chairman of the meeting of their intention to speak before the start of the meeting. Any Ward Member wishing to address the Committee shall have up to 3 minutes. Members' rights to address planning committees are in addition to the rights of public speakers.

MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a planning committee on a matter which affects their constituency or ward. Notice should be given to the Chairman of the meeting before

the start of the meeting. Any such Member would be allowed up to 3 minutes.

(i) **Members' rights to attend and speak at committees or sub-committees when they are not a Member of the committee.**

Councillors may attend any Council Committee or Sub-Committee, even when they are not appointed to them, but they cannot vote and should sit with members of the public.

Apart from planning committees (see above) and licensing committees councillors 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. Any Councillor wishing to address the Committee or Sub-Committee shall have up to 3 minutes.

The Lead Member for Children's Services has a right to address a Committee, Sub-Committee or Partnership Board for up to three minutes when it is considering matters which relate children and young people, subject to giving notice to the Chairman of the meeting before the start of the meeting and the Chairman giving his or her consent

Members may remain for the private part of any committee meeting.

2.4 **Conduct**

Councillors will at all times observe their Code of Conduct, Members' Planning and Licensing Codes, and the Protocol on Member/Officer Relations set out in this Constitution.

2.5 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in this Constitution.

Article 3 – Residents and Public Participation

3.1 Residents' Rights

Residents have a number of rights. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

- (a) (i) **Petition scheme.** Residents who are concerned about a Council service or a decision that is about to be made may send the Council a petition which shall be considered and responded to in accordance with the Petition Scheme as outlined below.
- (b) **Information.** Residents have the right to:
 - (i) Attend meetings of the Council and its committees, except where confidential or exempt information is likely to be disclosed, and that part of the meeting is therefore held in private;
 - (ii) See agendas, reports and background papers, except where confidential or exempt information is likely to be disclosed, and any records of decisions made by the Council and its committees; and
 - (iii) Inspect the Council's accounts and make their views known to the external auditor.
- (c) **Treatment.** Residents have the right to:
 - (i) Be treated with understanding and respect;
 - (ii) Have equal opportunity with other residents; and
 - (iii) Receive quality services provided to Best Value principles.
- (d) **Public Engagement.** Residents have the right to ask questions, receive answers and make comments at committee meetings in accordance with the following rules. Residents can also raise issues at Residents Forum.

Residents can participate in Committee meetings as follows:

- By asking a public question
- By making a public comment
- By submitting a petition

3.2 Questions to a Committee

Questions must specify the item of business on the agenda which they relate to. Committee agendas are usually published on the Council's website five clear working days prior to the meeting. Residents should state their address when submitting questions.

Questions should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any questions submitted after this time will not be considered.

Written responses to public questions will be circulated to the questioner in advance or at the meeting. Residents can ask the committee chairman one supplementary question per question asked at the committee meeting, which will be answered without discussion. The supplementary question must be relevant to the original question put to the chairman.

Residents 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.

~~At the meeting a time period of up to 30 minutes is available for public questions and comments in total.~~

3.3 **Comments to Committees**

Comments must specify the item of business on the agenda which they relate to. Committee agendas are published on the Council's website five clear working days prior to the meeting. Residents should state their address when submitting a request to make a comment.

Requests to speak should be submitted to the relevant Governance Officer named on the front page of the agenda and be received by 10am on the third working day prior to the meeting. Any requests to make comments after this time will not be considered.

At the meeting each speaker will have a time period of up to three minutes to address the committee. Committee Members may ask the speaker questions on the representation they have made to the committee.

Comments may also be made in writing within the same deadlines as above and these will be published as an addendum to a report.

Residents making public comments are able to send a substitute if they are unable to attend a committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.

3.4 **Procedure for Questions and Comments at Committees**

At the committee meetings a time period of up to 30 minutes, is available for public questions and comments in total.

Public comments will be received by the Committee before supplementary questions are asked. Where a resident has submitted more than one question, their second item or question will be considered after all other residents have asked their first supplementary question. Supplementary questions will continue to be asked in this way until there are no further questions or 30 minutes has elapsed.

3.5 Issues for Residents Forum

Issues must be received by the Governance Service by 10am on the fifth working day prior to the meeting for the item to be discussed at the Forum. Written responses to local matters will be provided by 5pm the working day before the Residents Forums take place. Residents should state their address when submitting a forum issue.

The Forum Chairman has the discretion to accept issues with less than five days' notice if they deem the matter to be urgent. Responses to urgent matters will be responded to verbally by officers at the Forum meeting.

Councillors, MPs and Assembly Members are not permitted to submit items and questions for Residents Forum, but may be called on to comment on issues. Such comments will be invited entirely at the discretion of the Residents Forum chairman.

The Six Month Rule shall apply whereby matters dealt with cannot be raised again within this period. The Six Month Rule means that Residents Forum will not reconsider any issues discussed at a resident's forum or any decision taken by a committee in the six months preceding the date of the forum.

The Residents Forum may also be a forum for certain consultations from the Council as decided by the Chairman.

At Residents Forum issues will be considered in order of receipt. Where a resident has submitted more than one issue, their second item or question will be considered after all other residents have presented their first item. Issues will continue to be determined in this way until all issues have been considered.

The Chairman will determine issues in the following way:

1. Residents will have the opportunity to address the Forum on for up to 3 minutes on the issue they have previously raised
2. Chairman, Chief Officers or other relevant officers may respond to the issues raised
3. Having considered the issues the Chairman can take the following actions:
 - note the issue and take no action
 - instruct that an appropriate named officer contact the resident within 20 working days to provide an additional response
 - instruct that Ward Members are notified of the issue.
 - decide that the issue be referred to the next meeting of an Area Committee for consideration, subject to the issue being within the terms of reference of an Area Committee

When determining issues in accordance with the options detailed above, the Chairman must give reasons for their decision.

Public questions and comments are not permitted:

- If they don't relate to a substantive item on the agenda
- 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 Constitution & General Purposes Committee.
- If they would result in the release of confidential information, or which may prejudice enforcement.
- If they relate to a matter where there is a right of appeal against any decision of the Council.
- If they have been submitted by someone who has been deemed to be subject to the Unreasonably Persistent Complainants Policy;
- If they are received from people who are not Barnet residents;
- At the Planning Committee and Area Planning Committees on Town and Country Planning applications (a separate procedure is detailed in section 3.7). Public questions and comments are permitted at the Planning Committee on planning policy matters;
- 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 question, comment or issue will be permitted.

3.6 Petitions

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/or the relevant Committee Chairman for information.

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.

The address of the Head of Governance is as follows:

Head of Governance
 London Borough of Barnet
 Building 2, North London Business Park
 Oakleigh Road South
 N11 1NP

The authority's e-petition facility can be found here:

<https://barnet.moderngov.co.uk/mgEPetitionListDisplay.aspx?bcr=1>

E-petitions submitted on external websites can be accepted by the council. However, petitions hosted on external websites will need to be submitted by the lead petitioner to the Head of Governance in order for the petition to be accepted.

Petition signatures must be from Barnet residents otherwise they will not count towards the overall signature total. Petitions signatories must provide addresses to enable them to be verified.

A petition will not be accepted if:

- it is vexatious or abusive;
- it relates to any enactment or statutory provision;
- it relates to a safeguarding matter;
- it does not contain the address of signatories;
- it relates to a named individual or could reveal the identity of a person;
- it does not relate to the functions of the council;
- it is not clear what it is asking the council to do;
- it deals with an issue that has previously been resolved;
- it is repetitive, vexatious, or requires action which is unlawful or for which another council procedure is available

The Head of Governance will make a ruling on whether or not to accept a petition, taking into consideration grounds for rejection as laid out above.

On such an occasion where a petition is rejected, the Head of Governance (or his/her representative) will write to the lead petitioner and explain the reasons for rejection.

Petitions relating to planning or licensing applications, appeals or reviews will be treated as letters of representation and will be dealt with by the relevant service area and will be taken into consideration in dealing with the relevant application, appeal or review. For petitions falling within these categories, the reporting procedures below will not apply.

Petitions which have been submitted in response to a consultation process initiated by a specific committee should be reported back to that committee.

Petitions will be acknowledged within 10 working days. The acknowledgement will include information on how the petition will be progressed.

Petitions will be reported as follows:

Signatures	Forum and Procedure
0-24	No action required.
25 – 1,999 Signatures	<p>The petition will be reported to Residents Forum to which the issue relates. Where the petition relates to a borough-wide issue, the matter will be reported to the Residents Forum for the constituency area in which the lead petitioner resides.</p> <p>The Lead Petitioner will be given three minutes to</p>

	<p>present the petition to the Forum. Following the presentation the Residents Forum Chairman will decide to:</p> <ul style="list-style-type: none"> • Take no action; • Refer the matter to a chief officer to respond to within 20 working days; or • Refer the matter to the relevant Area Committee (if funding is required)
<p>2,000 – 6,999 Signatures</p>	<p>Where the petition relates to the functions and responsibilities of an Area Committee it will be reported to the relevant Area Committee.</p> <p>Where the petition relates to the matters outside the functions and responsibilities outside of the remit of an Area Committee, the petition will be reported to the relevant Theme Committee.</p> <p>The Lead Petitioner will be given five minutes to present the petition to the committee.</p> <p>Following the presentation the Chairman and Committee Members have an opportunity to ask the Lead Petitioner questions. After the debate the Committee will decide to:</p> <ul style="list-style-type: none"> • Take no action • Refer the matter to a chief officer to provide a written respond to Lead Petitioner within 20 working days; or • Instruct an officer to prepare a report for a future meeting of the Committee on the issue(s) raised with a recommended course of action
<p>7,000 plus Signatures</p>	<p>The petition will be considered by Full Council and the following process will be followed:</p> <ul style="list-style-type: none"> • Lead Petitioner is given five minutes to present the petition; • Council Members have an opportunity to ask questions of the Lead Petitioner then debate the item. • The relevant Committee Chairman will respond to the issues raised in the petition and outline the decision route (if any) he/she proposes to take

Petitions are required to be received seven working days before the Residents Forum, relevant committee meeting or Full Council.

Any hard copy petition received will be published on the Council's website via the Council's e-petition facility and processed by the Council as documented in this section. Updates or responses to petitions will be published on the e-petitions section of the website once an officer has responded or a Forum, Committee or Full Council has received a petition.

3.7 Requests to speak at Planning Committees

Requests to speak about an application on the planning committee agenda should be submitted to the relevant ~~Governance~~Planning Case Officer by 10am on the third working day prior to the meeting.

In addition to any Councillor and the Applicant (or their representative) two residents may speak. Such speakers shall be one for and one against the application unless there is no resident wishing to speak for the application in which case two residents may speak against the application, or no resident in objection in which case two residents may speak in support of the application.

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

Where an application being considered by an Area Planning Committee is referred to the Planning Committee for determination, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the Planning Committee.

Speaking rights will also automatically transfer where an application has been deferred or adjourned to a future meeting of planning committee, but only if the speakers have not already addressed the committee on the deferred or adjourned item.

Public speaking arrangements do not apply to an item relating to the making / confirmation of a Tree Preservation Order as this would be contrary to the legislative procedure for making objections and/or representations.

3.8 Complaints

Residents have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Local Government Ombudsman (after using the Council's own complaints scheme);
- (iii) the Monitoring Officer about a breach of the Members Code of Conduct.

3.9 Disorderly Conduct

If a member(s) of the public or press (or a Councillor) 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.

Article 7 – Committees, Forums, Working Groups and Partnerships

Committees

- 7.1 The Council will appoint the committees set out below at 7.5 to discharge the functions described.

Sub-Committees and Working Groups

- 7.2 Following the Annual Meeting of the Council, and at any time during the year, committees may appoint: sub-committees and/or working groups and, if appropriate, agree their terms of reference, a Chairman and, if considered necessary, a Vice-Chairman and substitute members of the sub-committee or working group.

Appointment of Members to Committees

- 7.3 The Council will appoint the Members, Chairman and Vice Chairman to serve on the Committee subject to the right of a political group within the meaning of the Local Government and Housing Act 1989 and any regulations made under that Act to make nominations for those appointments at the meeting that makes the appointments before the appointments are made.

Local Strategic Partnership

- 7.4 A Local Strategic Partnership is an advisory Committee 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

- 7.5 Responsibility for Functions*

**If any report appears to come 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.*

Terms of Reference of all Committees are set out below:

Body responsible	Functions	Membership
Policy and Resources Committee	<p>(1) To be responsible for:</p> <ul style="list-style-type: none"> • Strategic policy, finance and corporate risk management including recommending: Capital and Revenue Budget; Medium Term Financial Strategy; and Corporate Plan to Full Council • Finance including: <ul style="list-style-type: none"> ➢ Treasury management Local taxation ➢ Insurance ➢ Corporate procurement ➢ Grants ➢ Writing-off debt ➢ Virements ➢ Effective use of resources • Procurement Forward Plan • Local Plans (except for matters reserved to Full Council) • Information Technology • Strategic Partnerships • Customer Services and Resident Engagement • Emergency Planning <p>(2) To be responsible for those matters not specifically allocated to any other committee affecting the affairs of the Council.</p> <p>(3) Consider for approval budget and business plan of the Barnet Group Ltd.</p> <p>(4) To determine fees and charges for services which are the responsibility of the committee and to note decisions taken by theme committees, the Planning Committee and Licensing Committee on fees and charges within the remit of those committees.</p>	<p>12</p> <p>Chairman, Vice Chairman, Members and substitutes to be appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>

<p>Financial Performance and Contracts Committee</p>	<p>(1) Responsible for the oversight and scrutiny of:</p> <p>(a) the overall financial performance of the council</p> <p>(b) the performance of services other than those which are the responsibility of the: Adults & Safeguarding Committee; Assets, Regeneration & Growth Committee; Children, Education & Safeguarding Committee; Community Leadership & Libraries Committee; Environment Committee; or Housing Committee</p> <p>(c) the council’s major strategic contracts including (but not limited to):</p> <ul style="list-style-type: none"> ➤ Analysis of performance ➤ Contract variations ➤ Undertaking deep dives to review specific issues ➤ Monitoring the trading position and financial stability of external providers ➤ Making recommendations to the Policy & Resources Committee and/or theme committees on issues arising from the scrutiny of external providers <p>(2) At the request of the Policy & Resources Committee and/or theme committees consider matters relating to contract or supplier performance and other issues and making recommendations to the referring committee</p> <p>(3) To consider any decisions of the West London Economic Prosperity Board which have been called in, in accordance with this Article.</p>	<p>8</p> <p>Chairman, Vice Chairman, Members and substitutes to be appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>
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<p>Children, Education and Safeguarding Committee</p>	<p>(1) Responsibility for all matters relating to children, schools and education.</p> <p>(2) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.</p> <p>(3) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To receive and consider reports as appropriate from the Corporate Parenting Advisory Panel.</p> <p>(6) Receive an annual report from the Lead Member for Children's Services (Chairman of Children, Education and Safeguarding Committee) covering key matters.</p> <p>(7) Receive an annual report from the Safeguarding Children's Board.</p> <p>(8) Determining arrangements for making nominations to the governing bodies of Local Authority administered schools.</p> <p>(9) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes to be appointed by Council.</p> <p>Requirement to have a Lead Member for Children's Services.</p> <p>6 substitutes Quorum 3</p>
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<p>Adults and Safeguarding Committee</p>	<p>(1) Responsibility for all matters relating to vulnerable adults, adult social care and leisure services.</p> <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) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.</p> <p>(4) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(5) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(6) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>
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<p>Environment Committee</p>	<p>(1) Responsibility for all borough-wide or cross-constituency matters relating to the street scene including, parking, road safety, lighting, street cleaning, transport, waste, waterways, refuse, recycling, allotments, parks, trees, crematoria and mortuary, trading standards and environmental health.</p> <p>(2) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.</p> <p>(3) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>
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<p>Assets, Regeneration and Growth Committee</p>	<p>(1) Responsibility for regeneration strategy and oversee major regeneration schemes, asset management, employment strategy, business support and engagement.</p> <p>(2) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.</p> <p>(3) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council. Committee to be made up in accordance with proportionality</p> <p>6 substitutes</p> <p>Quorum 3</p>
<p>Housing Committee</p>	<p>(1) Responsibility for housing matters including housing strategy, homelessness, social housing and housing grants, commissioning of environmental health functions for private sector housing.</p> <p>(2) To submit to the Policy and Resources Committee proposals relating to the Committee's budget for the following year in accordance with the budget timetable.</p> <p>(3) To make recommendations to Policy and Resources Committee on issues relating to the budget for the Committee, including virements or underspends and overspends on the budget. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>

	<p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	
Community Leadership & Libraries Committee	<p>(1) Responsibility for libraries, culture, civic events, the mayoralty, community safety, registration and nationality service</p> <p>(2) To receive nominations and determine applications for buildings / land to be listed as an Asset of Community Value (Community Right to Bid)</p> <p>(3) To submit to the Policy and Resources Committee proposals on the Committee's budget for the following year in accordance with the budget timetable and make recommendations on issues relating to virements, underspends or overspends. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>
Community Leadership & Libraries Committee	<p>(1) Responsibility for libraries, culture, civic events, the mayoralty, community safety, registration and nationality service and grants to the voluntary sector.</p> <p>(2) To receive nominations and determine applications for buildings / land to be listed as an Asset of Community Value (Community Right to Bid)</p> <p>(3) To submit to the Policy and Resources Committee proposals on the Committee's budget for the following year in accordance</p>	<p>10</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>

	<p>with the budget timetable and make recommendations on issues relating to virements, underspends or overspends. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.</p> <p>(4) To receive reports on relevant performance information and risk on the services under the remit of the Committee.</p> <p>(5) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	
<p>Community Leadership & Libraries Sub-Committee</p>	<p>To receive nominations and determine applications for buildings / land to be listed as an Asset of Community Value (Community Right to Bid) when there is no scheduled meeting of the full Committee which falls within the eight week statutory deadline for determining applications</p>	<p>3</p> <p>Chairman, Vice-Chairman and Opposition Spokesperson Appointed by Community Leadership Committee</p> <p>3 substitutes Quorum 2</p>

<p>Area Committees</p> <p>Finchley & Golders Green;</p> <p>Chipping Barnet; and</p> <p>Hendon</p>	<p>In relation to the area covered:</p> <p>1) Responsibility for all constituency specific matters relating to the street scene including parking, road safety, transport, allotments, parks and trees.</p> <p>2) Consider constituency specific matters as agreed with the Chairman.</p> <p>3) Consider matters relating to Town Centre regeneration and designating conservation areas.</p> <p>4) 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>5) Determine the allocation of Community Infrastructure Levy funding within the constituency up to a maximum of £25,000 per scheme / project in each case subject to sufficient of the budget allocated to the committee being unspent.</p>	<p>7</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>One Member and one substitute member for each Ward.</p> <p>Quorum 3</p>
<p>Licensing Committee</p>	<p>(1) All policy matters relating to licensing, with licencing hearings concerning all licencing matters delegated to sub-committees.</p> <p>(2) To recommend for approval fees and charges for those areas under the remit of the Committee.</p>	<p>11</p> <p>Chairman, Vice Chairman, Members</p> <p>No substitute members</p> <p>Quorum 3</p>
<p>Licensing Sub-Committees</p>	<p>All functions in relation to licensing as delegated by the Licensing Committee. Members appointed from the membership of the Licensing Committee</p>	<p>3</p> <p>Quorum 3</p> <p>Chairman appointed at each meeting of a Sub-Committee.</p>

<p>Audit Committee</p>	<p>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><u>Anti-Fraud Activity</u> To monitor the effective development and operation of the Council's Corporate Anti-Fraud Team (CAFT).</p> <p><u>Regulatory Framework.</u> To review any issue referred to it by the Chief Executive and to oversee the production of the authority's Annual Governance Statement and to recommend its adoption.</p> <p><u>Accounts</u> To review and approve the annual statement of accounts and 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> The Audit Committee shall prepare a report to Full Council on annual basis on its activity and effectiveness.</p> <p><u>Treasury Management</u> To review the implementation of the Treasury Management Strategy.</p>	<p>7</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>The membership should also include two independent, non-voting Members with a period of appointment of four years.</p> <p>6 substitutes</p> <p>Quorum 3</p>
<p>Planning Committee</p>	<p>To determine Applications for Planning Permission, including permissions in principle, made under the Town and Country Planning Act 1990 where the recommendation is for approval and the development:</p> <p>a. is within the categories which must be referred to the Mayor of London under the London Mayor Order;</p>	<p>11</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>10 substitutes</p> <p>Quorum 3</p>

	<p>b. does not accord with the provisions of the Development Plan and, in the opinion of the Chief Planning Officer, constitutes a significant departure; or</p> <p>c. is by or on behalf of the Council and, in the opinion of the relevant Chief Planning Officer], it is a significant development</p> <p>The confirmation of Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015.</p> <p>The confirmation of Town and Village Green Registration Applications under the Commons Act 2006, including 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>Consider for approval and confirmation Neighbourhood Development Orders and Community Right to Build Orders.</p> <p>Recommending the creation of Conservation Areas to Full Council</p> <p>Consider approving Article 4 Directions for consultation</p> <p>Take action under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges</p> <p>Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.</p> <p>Any other planning application or planning matter referred to this Committee by relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chairman.</p> <p>Reports on all matters reserved to the Committee shall be made direct to the Committee and not through an Area Planning Committee.</p>	
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	<p>Any Planning Area Committee agenda item referred to this Committee for consideration and determination.</p> <p>To recommend for approval fees and charges for those areas under the remit of the Committee.</p> <p>To consider additions, deletions or amendments to the entries in the Council's Brownfield Land Register, including any referrals from the Area Planning Committees, and conduct any other functions related to the Brownfield Land Register.</p>	
<p>Area Planning Committees:</p> <p>Finchley & Golders Green;</p> <p>Chipping Barnet; and</p> <p>Hendon</p>	<p>To determine the following application types, except where they are referable under the Constitution to the Planning Committee:</p> <p>A. Applications for Planning Permission made under the Town and Country Planning Act 1990;</p> <p>B. Applications for Listed Building Consent made under the Planning (Listed Buildings and Conservation Areas) Act 1990;</p> <p>C. Applications for Consent to Display an Advertisement made under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;</p> <p>D. Applications for permissions in principle made under the Town and Country Planning Act 1990 and any application to add, delete or amend any entries in the Council's Brownfield Land Register" after the words "To determine the following application types, except where they are referable under the Constitution to the Planning Committee</p> <p>Where the recommendation is for approval and:</p> <p>a. <u>approval and</u> there is significant local public objection (defined as <u>5-10</u> or more</p>	<p>7 for each Committee</p> <p>One councillor representing each Ward 7 substitutes – one per Ward</p> <p>Quorum 3</p> <p>Chipping Barnet Area Planning Committee Brunswick Park Coppetts East Barnet High Barnet Oakleigh Totteridge Underhill</p> <p>Finchley and Golders Green Area Planning Committee: Childs Hill East Finchley Finchley Church End, Garden Suburb Golders Green West Finchley Woodhouse</p> <p>Hendon Area Planning Committee</p>

	<p>objectors who have objected in writing in response to a planning application)</p> <p>b. <u>approval or refusal and</u> there is a Councillor referral of an application which affects their Ward which that Member has 'called-in' to committee identifying a planning consideration.</p> <p>Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.</p> <p>Any other application or planning matter referred to this Committee by the relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chairman.</p> <p>Applications to undertake treatment to trees included within a Tree Preservation Order</p> <p>Applications for a Hedgerow removal notice made under the Hedgerow Regulations 1997.</p> <p>Applications to demolish buildings on the Council's Local List.</p>	<p>Burnt Oak Colindale Edgware Hale Hendon Mill Hill West Hendon</p>
<p>Constitution and General Purposes Committee</p>	<p>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:</p> <p>(i) how it can satisfy the continuing duty to promote and maintain high standards of conduct by Members;</p> <p>(ii) on the Code of Conduct for Members;</p> <p>(iii) on ethical standards in general across the authority.</p> <p>To have responsibility for overseeing the Council's governance arrangements including:</p> <ul style="list-style-type: none"> • Electoral Services including: elections and 	<p>7</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>6 substitutes</p> <p>Quorum 3</p>

	<p>electoral registration performance; and polling places and polling district boundaries</p> <ul style="list-style-type: none"> • Determine Members requests for non-committee information as specified in the Members Information Management Policy • Endorsing the calendar of meetings prior to Council approval • Health and Safety Strategy and Performance • Member Development • Staff matters generally (other than those within the remit of Chief Officer Appointment Panel) including: <ul style="list-style-type: none"> ➤ salaries and terms and conditions; ➤ approval of staffing restructures involving 20 or more employees; ➤ deciding on chief officer salary or severance packages over £100,000; ➤ approving the chief officer structure; ➤ pay and reward strategy; ➤ HR policies which go over and above statutory requirements; ➤ develop the annual pay policy statement for Full Council approval <p><u>When considering a report on staffing matters, a representative of the trade unions may submit a request to speak which requires the consent of the Chairman, or be questioned by the Committee before a decision is made. Each representative will have up to 3 minutes to address the committee.</u></p>	
Standards Committee	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>5 (2 Members each from the Administration and the Opposition, and an Independent Member Chairman)</p> <p>2 substitutes each from the Administration and the Opposition.</p> <p>Quorum 3</p>

<p>Pension Fund Committee</p>	<p>To consider approval and act in accordance with statutory Pension Fund documents:</p> <ul style="list-style-type: none"> • Statement of Investment Principles • Funding Strategy Statement • Governance Policy Statement • Pension Administration Strategy • Communication Policy Statement <p>To review the above documents at least triennially, or more frequently if advised by the Chief Finance Officer of the need to do so</p> <p>To meet review and consider approval of the Pension Fund Statement of Accounts, income and expenditure and balance sheet or record of payments and receipts</p> <p>To receive and consider approval of the Pension Fund Annual Report.</p> <p>To appoint independent investment advisors.</p> <p>To appoint Pension Fund investment managers.</p> <p>To appoint Pension Fund actuaries.</p> <p>To appoint a performance management company.</p> <p>To appoint custodians.</p> <p>To review and challenge at least quarterly the Pension Fund investment managers' performance against the Statement of Investment Principles in general and investment performance benchmarks and targets in particular. One of these meetings to be the annual review, at which the representative from the council's performance management organisation attends to comment on the relative performance of the fund managers.</p> <p>To consider actuarial valuations and their impact on the Pension Fund.</p>	<p>7</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>To invite a recognised representative from the trades unions and a representative from Middlesex University (the largest scheduled / admitted body) to committee meetings</p> <p>These representatives are appointed to advise the committee on behalf of the interests they represent, but are not to have any voting rights. Further invites to scheduled/admitted bodies to be decided by the chairman of the committee.</p> <p>6 substitutes – 3 from each political group</p> <p>Quorum 3</p>
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<p>Local Pension Board</p>	<p>The Board is responsible for assisting with:</p> <ul style="list-style-type: none"> ○ securing compliance with Local Government Pension Scheme (LGPS) Government regulations and any other legislation relating to the governance and administration of the LGPS ○ securing compliance with the requirements imposed in relation to the PGPS by the Pensions Regulator. ○ such other matters that the LGPS regulations may specify <p>Ensure the effective and efficient governance and administration of the LGPS for the LBB Pension Fund.</p>	<p>7 Members comprising:</p> <p>3 employers side representatives (1 councillor and 2 employer representatives from an admitted body)</p> <p>3 employee side representatives (1 active member and 2 deferred member)</p> <p>1 independent member/advisor</p>
<p>Chief Officer Appointment Panel</p>	<p>To deal with Chief Officer Appointments, Discipline and Capability matters.</p> <p>Members comprise:</p> <p>Chairman – Leader of the Council Deputy Leader of the Council. One Administration Member</p> <p>Leader of the Opposition One Opposition Member</p>	<p>5</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>One substitute from each political group</p> <p>Quorum 3</p>
<p>Health and Wellbeing Board</p>	<p>(1) To jointly assess the health and social care needs of the population with NHS commissioners, and use the findings of a Barnet Joint Strategic Needs Assessment (JSNA) to inform all relevant local strategies and policies across partnership.</p> <p>(2) To agree a Health and Wellbeing Strategy (HWBS) for Barnet taking into account the findings of the JSNA and strategically oversee its implementation to ensure that improved population outcomes are being delivered.</p> <p>(3) To work together to ensure the best fit between available resources to meet the health and social care needs of the whole population of Barnet, by both improving services for health and social care and helping people to move as close as possible</p>	<p>12</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>Vice Chairman is Chair of Barnet CCG Governing Body</p> <p>Three Members of the Council</p> <p>Director of Public Health</p> <p>Strategic Director for Children & Young People</p> <p>Strategic Director for</p>

	<p>to a state of complete physical, mental and social wellbeing. Specific resources to be overseen include money for social care being allocated through the NHS; dedicated public health budgets; the Better Care Fund; and Section 75 partnership agreements between the NHS and the Council.</p> <p>(4) To provide collective leadership and enable shared decision making, ownership and accountability</p> <p>(5) To promote partnership and, as appropriate, integration, across all necessary areas, including joined-up commissioning plans and joined-up approach to securing external funding across the NHS, social care, voluntary and community sector and public health.</p> <p>(6) To explore partnership work across North Central London where appropriate.</p> <p>(5) Specific responsibilities for:</p> <ul style="list-style-type: none"> • Overseeing public health and promoting prevention agenda across the partnership • Developing further health and social care integration. 	<p>Adults, Communities & Health</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>Barnet voluntary and community sector representative</p> <p>Independent Chair of the Adults and Children’s Safeguarding Boards (Non-Voting Member)</p> <p>Each member may nominate a substitute if they cannot attend.</p> <p>Requirement for proportionality is waived and voting rights allowed to members other than Members of the Council.</p> <p>Quorum 3</p> <p>The Quorum should consist of at least one Councillor and one health representative</p>
<p>Health and Wellbeing Board</p>	<p>(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.</p> <p>(2) To agree a Health and Wellbeing Strategy (HWBS) for Barnet taking into account the findings of the JSNA and performance manage its implementation to ensure that</p>	<p>12</p> <p>Chairman, Vice Chairman, Members and substitutes appointed by Council.</p> <p>Three Members of the Council</p>

	<p>improved outcomes are being delivered.</p> <p>(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 wellbeing. Specific resources to be overseen include money for social care being allocated through the NHS; dedicated public health budgets; the Better Care Fund; and Section 75 partnership agreements between the NHS and the Council.</p> <p>(4) 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. To explore partnership work across North Central London where appropriate.</p> <p>(5) Specific responsibilities for:</p> <ul style="list-style-type: none"> • Overseeing public health • Developing further health and social care integration. 	<p>Director of Public Health</p> <p>Strategic Director for Children & Young People</p> <p>Strategic Director for Adults, Communities & Health</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>Independent Chair of the Adults and Children’s Safeguarding Boards (Non-Voting Member)</p> <p>NHS England</p> <p>Each member may nominate a substitute if they cannot attend.</p> <p>Requirement for proportionality is waived and voting rights allowed to members other than Members of the Council.</p> <p>Quorum 3</p>
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<p>Health Overview and Scrutiny Committee</p>	<p>(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 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.</p>	<p>9 Chairman, Vice-Chairman, Members and substitutes to be appointed by Council</p>
<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 Appointed by Council. Quorum 2</p>
<p>Residents Forums</p> <p><u>Chipping Barnet Residents Forum</u> Underhill, High Barnet, East Barnet, Oakleigh, Brunswick Park, Coppetts and Totteridge Wards.</p> <p><u>Hendon Residents Forum</u> Hale, Edgware, Burnt Oak, West Hendon, Colindale, Hendon and Mill Hill Wards</p> <p><u>Finchley and Golders Green Residents Forum</u> Woodhouse, West Finchley, Finchley Church End, Garden Suburb, Golders Green, Childs Hill and East Finchley Wards</p>	<p>Residents Forums provide an opportunity for any resident to raise matters affecting the area except matters relating to licensing and planning applications.</p>	<p>A Chairman and Vice-Chairman of each appointed by the Council.</p>

<p>Local Strategic Partnership (Barnet Partnership Board)</p>	<p>A Local Strategic Partnership is an advisory committee 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</p>	<p>Leader of the Council</p> <p>Council representatives to be appointed by Annual Council</p> <p>Senior representatives from:</p> <ul style="list-style-type: none"> • Met Police • Middlesex University • Barnet Clinical Commissioning Group • Community Barnet • Brent Cross Shopping Centre • Barnet and Southgate College • Job Centre Plus
<p>Children’s Partnership Board</p>	<p>Barnet’s Children’s Partnership Board brings together all services for children and young people in the borough, to focus on hearing the voice of children and young people and improving their outcomes.</p> <p>Senior representatives from partner organisations make up the Children’s Partnership Board which keeps strategic oversight of the Barnet Children and Young People’s Partnership Plan. Each organisation has agreed to be responsible for implementing this plan which will be monitored by the Board.</p> <p>The legal framework underpinning Barnet’s Children’s Partnership Board arrangements is the ‘duty to cooperate’ and improve the well-being of children across the Borough, set out in S10 of the Children Act 2004. The terms of reference and membership will be the subject of annual review to take account of local or national changes and developments.</p> <p><u>General Responsibilities and Functions</u></p> <p>The Children’s Partnership Board is</p>	<p>The Board will be chaired by the Strategic Director for Children & Young People.</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 and members are:</p> <ul style="list-style-type: none"> • LB Barnet – Lead Member for Children’s Services; Strategic Director for Children & Young People; Public Health Strategy Consultant; Director, Joint Commissioning; Head of Joint Children’s Commissioning Unit) • Barnet Clinical Commissioning Group (Board

	<p>accountable for the following:</p> <ul style="list-style-type: none"> • Ensuring the voice of children and young people is heard in Barnet • Developing and delivering the Children & Young People’s Plan. • Ensuring that the collective resources of the partners are being used to the best effect to meet the priorities in the Children & Young People’s Plan. • Resolving issues that block progress against the priorities. • Summary updates and signing off all agreed Plans and Strategies relating to Children and Young People in Barnet prior to presentation to executive groups (e.g. CELS, H&WBB) • Working with the Voluntary Sector in a particular approach to enable the best outcomes for children and young people <p>This includes shared responsibility for:</p> <ul style="list-style-type: none"> • Meeting the priorities in the Children & Young People’s Plan • Jointly developing, delivering and resourcing strategies and action plans necessary to meet the priorities • Addressing barriers to meeting the priorities and to identifying future needs, including communication, information and data sharing • Keeping Children’s workforce informed and involved, providing clear direction, development and training as necessary • Releasing staff to develop and attend network events • Clarifying and simplifying governance structures and decision-making • Ensuring that children, young people and families have a voice in decision making that affects them • Monitoring performance towards agreed outcomes and taking remedial action where necessary. • Building upon good practice and developing an evidence-based approach to what works. <p>The partnerships remit includes the needs of all children and young people in Barnet under</p>	<ul style="list-style-type: none"> • Member, Children’s Clinical Lead) • CommUnity Barnet (Chief Executive) • Barnet and Southgate College (Principal) • Metropolitan Police (Borough Commander) • Primary, Secondary and Special Schools (Representative headteachers from: Barnet primary schools; Barnet secondary schools; Barnet special schools) • Young Persons Representatives (Members of Barnet Youth Parliament x2) • Housing (Head of Strategy & Performance, Barnet Homes) • Multi-Faith Representative (Chair, Barnet Multi-Faith Forum) • Special Educational Needs and Disability (Assistant Director, SEND & Inclusion) • Parent / Carer Group Representative (Chair of the Parent Carer Forum) <p>Quorum 5 – must include the following:</p> <ul style="list-style-type: none"> • Chairman • At least one representative each of the Council and Barnet CCG • At least one representative of Barnet Police • At least one representative of
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	<p>the age of 19, young people up to the age of 25 leaving care and young people up to the age of 25 with disabilities and/or learning difficulties. These responsibilities include effective transition arrangements, where necessary.</p> <p><u>Roles and Responsibilities of Board Members</u></p> <p>All members of the Board are required to agree to undertake the following:</p> <ul style="list-style-type: none"> • Attendance at all Board meetings (or representation provided by as senior replacement). • Members will be responsible for an effective two-way communication system whereby the decisions and aims of the Board are widely disseminated and relevant organisational issues from members' own agencies are communicated to the Board. • Provide leadership on strategic issues to members of the Board • Champion the objectives of the Children and Young People's Plan and ensure relevant activities within the plan are implemented by their organisation. • Contribute to the development of a strategic three to five-year vision <p>Meetings will take every two months.</p>	<p>Public Health</p> <ul style="list-style-type: none"> • At least one member representing the voluntary sector
<p>Safer Communities Partnership Board</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.</p> <p>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</p>	<p>Meetings will be quarterly and a quorum will comprise four members provided this consists of:</p> <p>The Chairman (Barnet Councillor) and Vice Chairman (Metropolitan Police)</p> <p>At least one other representative each of the Council and the Metropolitan Police.</p> <p>Other current partners are:</p>

	<p>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>	<ul style="list-style-type: none"> • London Probation Trust • National Probation Service • London Fire Brigade • Barnet Clinical Commissioning Group • MOPAC (Mayor's Office Policing/Crime) • Barnet Safer Neighbourhood Board • Middlesex University • North West London Magistrates' Court • Inclusion Barnet • Victim Support, North London Division • Department for Work and Pensions • CommUNITY Barnet
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Substitute Members – Rules

- 7.6 A substitute Member may only attend, speak or vote at a meeting in place of a member usually from the same political group who is unable to attend the meeting. In the case of Area Committees and Area Planning Committees, substitutions are made on the basis of ward.
- 7.7 Details of membership substitutions or apologies for absence will be detailed in the formal record of the meeting.

Quorum – Rules

- 7.8 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.
- 7.9 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.

Chairman of Meetings

- 7.10 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.
- 7.11 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.

Minutes

- 7.12 Apologies for absence, declaration of interests and the confirmation of the minutes of previous meetings are the first items of business at the meeting, (other than Licencing Sub-Committees) except when there is a need to elect a Chairman.
- 7.13 Minutes can only be amended to correct factual inaccuracy in the record, and not to make any retrospective amendment to the decisions made. 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.

Urgent Business

- 7.14 When an urgent matter has arisen after the publication and dispatch of an appropriate agenda the following procedure applies:
- 7.15 The Chairman has the authority to agree to take urgent items not on the agenda. The Chair will consult with the Vice-Chairman and Opposition Spokesperson for the committee. The Chairman (with advice from the Monitoring Officer as appropriate) needs to be satisfied as to the need for urgency under the following criteria:
- i) the item has arisen between the compilation of the agenda and the date of the meeting.
 - ii) the item requires an urgent decision in the public interest which cannot be dealt with by other means
- 7.16 In all cases the reason for the urgency shall be clearly stated and recorded in the minutes of the meeting and the urgent item will be taken as the Chairman may decide.
- 7.17 If a decision on an issue is required as a matter of urgency [and there is no meeting scheduled] and if time allows under the provisions of the Access to Information Rules then a Committee comprising of the Leader, the Deputy Leader, and the Leader of the Opposition will be called. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency is through a committee comprising the three specified members. The Committee must consult with the Chairman of the relevant Committee.

Six Month Rule

7.18 The Six-Month Rule shall apply whereby matters dealt with cannot be raised again within this period

Financial Performance and Contracts Committee Call-in Procedure

- 7.19 The following procedure applies after a decision has been made by the West London Economic Prosperity Board (a Joint Committee in accordance with section 102 of the Local Government Act 2000).
- 7.20 Paragraph 24.4 of the Function and Procedure rules of the West London Economic Prosperity Board read as follows
- “Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call-in procedures of the Participating Borough concerned have been concluded.”
- 7.21 Where a decision is made by the Board the decision shall be published. Once the decision is published then it may be implemented on the expiry of 7 working days after publication unless 10 members of the Council wish to call it in.
- 7.22 The notice seeking to invoke the call-in procedure must be communicated to the Head of Governance who will then notify the West London Economic Prosperity Board.
- 7.23 A notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:
- (a) Inadequate consultation with stakeholders prior to the decision;
 - (b) The absence of adequate evidence on which to base the decision;
 - (c) The action is not proportionate to the desired outcome;
 - (d) A potential human rights challenge;
 - (e) Insufficient consideration of legal and financial advice;
 - (f) The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework of the Council;
- 7.24 A meeting of the Financial Performance and Contracts Committee (or Sub-Committee of the Committee created for this purpose), will be convened within 7 clear working days of the request for call-in.
- 7.25 The call-in procedure set out above shall not apply where the decision being taken by the West London Economic Prosperity Board is urgent. For the purposes of this call-in procedure a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the West London Economic Prosperity Board and the interests of Barnet. Reports to the West London Economic Prosperity Board must state that the report is urgent and provide the reasons for urgency.

- 7.26 The Chairman of the Financial Performance and Contracts Committee must agree that the decision proposed should be treated as a matter of urgency

Suspension of business at Committee and Sub-Committee meetings

- 7.27 No business at any meeting of a Committee or Sub-Committee shall be transacted after 10pm and any business transacted after that time shall be null and void. At 10pm and without further debate the Chairman shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.
- 7.28 At any meeting of the Council, Planning Committee and Area Planning Committees, the Mayor or Chairman at their sole discretion may extend the period for the transaction of business to 10.30pm. This will be recorded in the Committee's decisions.

Voting and Recording of Votes

- 7.29 The mode of voting at all meetings of the Council, its Committees, Sub-Committees or Working Groups shall be determined by a show of hands except where otherwise provided by law or in these standing orders.
- 7.30 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.
- 7.31 The Chairman will always have the right to exercise a casting vote in the event of equality of voting on a motion or amendment,
- 7.32 A Member of any committee can request that his/her vote be recorded in the minutes.

Filming and Recording of Meetings

- 7.33 Discreet, unlit, non-disruptive filming and recording of Council and Committee meetings by members of the public from the public gallery is allowed.

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Article 9 – Chief Officers

9.1 Management Structure

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

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

Delegated Authority to Chief Executive and Chief Officers

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

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

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

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

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

Discretion to Refer Matters to Members: Where a Chief Officer believes that a matter that is within their delegated authority is significant or sensitive they have the discretion to refer it to Members for decision.

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

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

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

(c) Statutory Officers

The Council will designate the following posts as shown:

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

(d) Statutory Officers

The Council will appoint officers to the following statutory posts:

- Electoral Registration Officer
- Registrar for Births Deaths and Marriages
- Data Protection Officer
- Local Authority Designated Officer (LADO)
- Chief Internal Auditor
- Virtual Headteacher

9.2 Functions of Head of Paid Service

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

9.3 Functions of the Chief Legal Advisor and Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer, assisted by the Head of Governance will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, officers and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service, the Monitoring Officer will report to the full council if s/he considers that any proposal, decision or omission which is referred by Harrow and Barnet Public Law or which is otherwise notified to him/her, would give rise to unlawfulness or if any decision or omission so referred would give rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Ensuring lawfulness and fairness of council operating procedures.** After consulting with the Head of Governance and the relevant senior line manager the Monitoring Officer will report to the Head of Paid Service any council process or procedure which s/he considers would give rise to unlawfulness or if any such process or procedure would give rise to maladministration.
- (d) **Managing the relationship with Harrow & Barnet Public Law.** As Chief Legal Advisor within the council, responsibility to manage the strategic 'client side' relationship with Harrow & Barnet Public Law to ensure the council continues to be provided with a legal service which meets its needs and to advise the Head of Paid Service and Director of Assurance where any risks are identified.
- (e) **Attending Full Council and Policy & Resources Committee** As Chief Legal Advisor & Monitoring Officer attending and advising at Full Council and Policy & Resources Committee.
- (f) **Supporting the Constitution, Ethics and Probity Committee.** The Monitoring Officer, assisted by the Head of Governance will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Constitution & General Purposes Committee.

- (g) **Conducting investigations.** The Monitoring Officer will conduct or appoint Officers or others to conduct investigations into allegations of breach of the Member Code of Conduct. Then s/he or they will make reports and recommendations in respect of such allegations in accordance with the procedure for handling complaints against Members.
- (g) **Providing legal advice.** The Monitoring Officer will provide advice to Members, Chief Executive, Chief and Senior Officers as may be requested or necessary to discharge the statutory duties of the Monitoring Officer and covering inter alia the scope of powers and authority to take decisions and maladministration.
- (i) **Register of Members Interests.** The Monitoring Officer, assisted by the Head of Governance will keep and maintain the Register of Members Interests and ensure its availability to the public.

9.4 Functions of the Chief Finance Officer / Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council and the council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the council is about to enter an item of account unlawfully.
- (b) **Estimates and resources.** In accordance with the Local Government Act 2003 to advise on robustness of estimates and level of resources.
- (c) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the council.
- (d) **Providing financial advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Pensions governance.** The Chief Finance Officer will provide support to the Pension Fund Committee and Local Pension Board.
- (g) **Debt Management.** The Chief Finance Officer will in consultation with HB Public Law write off debt amounts up to and including £5,000

9.5 Functions of the Director of Children's Services

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

The Executive Director, Children and Young People will fulfil the role of the Director of Children's Services.

- (b) The Director of Children's Services is responsible for the delivery of the Council's education and social services functions for children, and any health functions for children delegated to the Council by an NHS body and as required by the Children Act 2004.

9.6 Functions of the Director of Adult Social Services

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

9.7 Functions of the Director of Public Health (DPH)

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

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

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

9.9 Conduct

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

9.10 Employment

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

Article 11 – Finance, Contracts, and Legal Matters

11.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in the Constitution.

11.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in the Constitution.

11.3 Legal Proceedings

The ~~Assistant Chief Executive~~Director of Assurance is authorised to institute, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

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

Its functions and delegated powers include responsibility for the following functions:

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

11.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the ~~Assistant Chief Executive~~Director of Assurance or Monitoring Officer or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £181,302 and made under the Common Seal of the Council shall be attested by at least two duly authorised officers in accordance with paragraph 11.5.

11.5 Common Seal of the Council

The Common Seal of the Corporation shall be kept in a safe place by the Records Officer.

Sealing and Execution of Documents

The Chief Executive, ~~Assistant Chief Executive~~Director of Assurance, Monitoring Officer or the Head of Governance or another officer authorised in writing by any of the aforesaid shall have authority:-

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

Officer Interests

Where it becomes apparent to an Officer involved in the sealing or execution of documents, that they have a personal interest in a matter to which the document relates, a declaration of the existence and nature of that interest should be made as soon as possible.

Record of Sealing of Documents

An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Head of Governance (or duly authorised deputy) in a book or electronic record to be provided for the purpose.

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Contract Procedure Rules

1 APPLICATION

- 1.1 These Contract Procedure Rules provide the governance structure for the Council to procure works, goods and services.
- 1.2 These mandatory Contract Procedure Rules apply to everyone who commissions or procures contracts on behalf of the Council, including external consultants and third party providers.
- 1.3 Approved Officers (Heads of Service and above) are accountable for all Procurement in their respective area of responsibility including following the Contract Procedure Rules and complying with operational procurement guidelines and codes of practice.
- 1.4 All Officers must ensure that the Council's approved processes and standards for Procurement, as set out in the Procurement Toolkit are adhered to. All information governance, insurance, safeguarding, social value (including Support to Local Community), conflict of interest and business continuity requirements must be adhered to in line with the Procurement Toolkit and the Council's Information Governance Policies.
- 1.5 The Director of Commercial & ICT Services in consultation with the Director of ~~Resources-Finance~~ shall maintain and issue the Contract Procedure Rules.
- 1.6 Customer Support Group (CSG) Procurement is responsible for ensuring Council awareness and compliance with all relevant Law. Any significant changes to relevant Law will be reflected in these Contract Procedure Rules.

2 SCOPE

- 2.1 The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding on Procurement, such as grant allocation, received by the Council from external sources.
- 2.2 The Contract Procedure Rules do not apply to Non-Procurement activities whereby the Council has to pay for a Service which it did not initiate or for payments where it is not appropriate to tender including (but not exclusively) inter-authority and inter-agency payments, subscriptions/memberships, emergency temporary accommodation for vulnerable people, assessments and recoupment. Payments to third parties for these activities are subject to authorisation by Finance.
- 2.3 Where the Council is entering into a Contract as an agent in collaboration with another public body or organisation which is the principal or lead body in the collaboration, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the principal or lead body concerned. Where the Council is acting as principal or the lead body, these Contract Procedure Rules will take precedence.

- 2.4 Where the Council's schools have to abide by the Scheme for Financing Schools which requires them to follow Contract Standing Orders (CSO) for Schools, then the CSO for Schools shall take precedence over these Contract Procedure Rules.
- 2.5 These Contract Procedure Rules do not apply to any acquisition or disposal of any interest in land, or to any transaction in land under section 75 of the National Health Services Act 2006; arrangements between NHS bodies and the council are not subject to these Contract Procedure Rules though procurement activities undertaken under any such arrangements may be.

3 CONTRACT VALUE CALCULATION

- 3.1 Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire Contract period including any form of options or extensions of the Contract. Where the Contract term is not fixed the estimated value of the Contract must be calculated by multiplying the monthly spend value by 48 in accordance with Regulation 6 of the Public Contracts Regulations 2015.
- 3.2 Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of Contract Procedure Rules or the Law.
- 3.3 In the case of Framework Agreements or Dynamic Purchasing Systems the contract value must be calculated to include the total estimated value, net of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.

4 AUTHORISATION

- 4.1 Any Procurement, including extensions and variations to Contracts set out in the Annual Procurement Forward Plan and approved by the Policy and Resources Committee, is deemed as Authorised irrespective of the Contract value.
- 4.2 Any Procurement which has not been Authorised as set out in 4.1 must be Authorised in accordance with Article 10 of the Constitution, Table B.

5 PROCUREMENT METHOD

- 5.1 The method of procurement is set out in Article 10 of the Constitution, Table B.
- 5.2 All Procurements for goods and services over £25,000 must be advertised on Contracts Finder within 24 hours of the time when the Procurement is advertised in any other way. Procurement over the EU financial threshold must be advertised in the OJEU first and then on Contracts Finder. A

Contract award notice must also be published on Contracts Finder. CSG Procurement will arrange this.

- 5.3 Commissioners may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots. If commissioners decide not to subdivide into lots they must document the main reasons for their decision.
- 5.4 Where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement. Before entering into a Framework Agreement due diligence checks must be carried out to demonstrate that the Council can lawfully access the Framework Agreement and that it is fit for purpose and provides value for money.
- 5.5 For activities that result in a contractual obligation for social care placements and special education needs where the decision has been made on the Council's behalf (such as court directed order, personal budget/statement request or an individual's specific needs) the authority to sign off to award an individual funding agreement in accordance with the decision making framework is contained within the Article 10 (Decision-Making) as set out in the Constitution.
- 5.6 Procurement activity for Contracts for certain health, social, community, educational and cultural related services, "Light-Touch Regime Services" whose value is equal to or over the threshold of £615,278 must be tendered and awarded in compliance with the Public Procurement Regulations 2015. Refer to the CSG Procurement Team to advise on the procedures to be applied in connection with the award of these Contracts.
- 5.7 For Procurements below the EU financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.
- 5.8 For Contracts under the OJEU financial threshold the [Director Commercial & ICT Services](#) ~~Director~~ may waive the requirement to seek 2 written quotes subject to a Summary DPR being provided, demonstrating that the market place has been fully tested and the Council has obtained value for money.
- 5.9 The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view.
- 5.10 Commissioners shall require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, goods or services

6 SINGLE TENDER ACTION

- 6.1 A Single Tender Action is the awarding of a Contract to a contractor without undertaking a competitive tendering exercise. This is permitted only in exceptional circumstances and should be approved in advance by the Commercial & ICT Services Director. Procurement advice should be sought in all cases. Exceptional circumstances may include where the works, supplies or services can be supplied only by a particular supplier.
- 6.2 Where a competition has been undertaken and only a single bid has been received the Commercial & ICT Services Director can approve the award of a Contract, subject to an appropriate review being undertaken and an audit trail being available for inspection.

7 CONCESSION CONTRACTS

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

8 ACCEPTANCE

- 8.1 Acceptance of Contracts must be in accordance with Article 10 Table B of the Constitution, and in all cases is subject to: Budget provision; a compliant Procurement process; and confirmation of acceptable financial status of the contractor.
- 8.2 Acceptance of Contracts with independent providers of individual placements for children or adults will in the first instance be achieved through approved frameworks or approved lists of providers. Where requirements cannot be met through approved frameworks or approved lists, authority is delegated to the relevant officer of a service area under the scheme of delegation in the council's Constitution to enter into contract with a new independent provider.
- 8.3 Acceptance thresholds for Contract extensions and variations are set out in Article 10 Table B of the Constitution.
- 8.4 The financial evaluation of tenders will be undertaken by:

- CSG Procurement if the Contract is valued at less than £181,302 for goods or services or less than £4,551,413 for works, or;
- A Financial Officer as delegated by the Director of Finance if: (a) the contract is valued at £181,302 or more, for goods or services; or (b) the contract is valued at £4,551,413 or more for works; or (c) the Director of Finance considers that the Contract has a significant impact on the council's finances.

9 CONTRACT SIGNING and SEALING

- 9.1 Every Contract must be in a form approved by Legal services or delegated officer, if its value exceeds £25,000 or where appropriate to the nature of the Contract.
- 9.2 All Contracts awarded following a Procurement process with a Contract value above the EU financial threshold shall be sealed unless Legal Services or delegated officer directs otherwise.
- 9.3 Contracts and Framework Agreements must be sealed. Call-off Contracts from a Framework Agreement under the EU financial threshold do not require sealing and need only be signed by a Council Officer in accordance with the Scheme of Delegation.

10 CONTRACT MANAGEMENT

- 10.1 During the life of the Contract Approved Officers must ensure that the Council's approved processes for Contract Management, as set out in the Contract Management Toolkit are adhered to. In particular to ensure continuous improvement and value for money is achieved all Approved Officers must ensure that those responsible for managing Contracts undergo CSG Procurement approved training

11 EXTENSIONS and VARIATIONS

- 11.1 Contracts that have been originally advertised with extension options and which contain clear extension options can be extended subject to acceptance under Article 10 Table B of the Constitution and under Regulation 72 of the Public Contracts Regulations 2015 certain amendments, and extensions or renewals of an existing Contract can be made without triggering a requirement for a new Procurement exercise, subject to submit financial limits. Where necessary seek advice from Legal and CSG Procurement.
- 11.2 Placement Agreements for individuals in Social Care or Educational Needs may be varied or extended without reference to the Variation or Extension Acceptance levels and documentation set out in Article 10 of the Constitution, Table B.

- 11.3 The value referred to in Article 10 of the Constitution, Table B in the column headed 'Variation or extension Acceptance' is the total value of the original Contract value plus the addition of the value of any extensions and/or variations i.e. the total value of the extended or varied Contract.
- 11.4 In addition to the requirements of Regulation 72 Contracts may only be extended or varied if all of the following conditions have been met:
- the initial Contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
 - the value of the extension or variation added to the value of the original Contract does not exceed the original Authorisation threshold as defined in Article 10 of the Constitution, Table B;
 - the extension or variation has an approved Budget allocation;
 - if the initial Contract was subject to an EU regulated tender procedure, that the extension option was declared within the OJEU contract notice and the original Acceptance report (Delegated Powers Report/relevant Committee Report);
- 11.5 Where the Procurement results in a Contract which includes a provision for an extension, any Acceptance of that extension needs to be in accordance with Article 10 of the Constitution, Table B.
- 11.6 If any of the conditions at 11.4 or 11.5 cannot be met, then a new Procurement exercise must be commenced.
- 11.7 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with Article 10 of the Constitution, Table B.

12 WAIVERS

- 12.1 If the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, Approved Officers (Heads of Service or above) may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 12.2 Approved Officers may take decisions on emergency matters (i.e. an unexpected occurrence requiring immediate action) in consultation with the Chairman of Policy and Resources Committee providing they report to the next available Policy and Resources Committee, setting out the reasons for the emergency waiver. A copy of the relevant Policy and Resources Committee report must be provided to CSG Procurement and stored on the Council's contract repository.

Any waiver should only be granted for a maximum period of 12 months, except in exceptional case

Table 1

	Procurement value	Authorisation to commence a procurement process & Documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
A	Under £10,000 (Purchase Order)	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail	Reasonable means of selection* and evidence of having sourced and considered the local Barnet supplier market	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail	Must move to next threshold if £10,000 or above Authorisation documentation: Audit trail	Purchase Order
B	£10,000 – £50,000	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Audit trail; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought**	Council Officer as designated by approved Scheme of Delegation Authorisation documentation: Chief Officer List of Decisions	Must move to next threshold if above £50,000 Authorisation documentation: Chief Officer List of Decisions	Purchase Order Signed contract over £25k value

	Procurement value	Authorisation to commence a procurement process & documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
C	£50,001 – £181,301	Approved Officer Authorisation documentation: Chief Officer List of Decisions	Minimum 2 written quotations No SQ - Suitability Assessment Questions only	Approved Officer Authorisation documentation: Chief Officer List of Decisions	Chief Officer List of Decisions	Signed contract
D	£181,302 – £500,000	Chief Officer in consultation with Theme Committee Chairman Authorisation documentation: Full DPR (Chief Officer in consultation with Theme Committee Chairman) or Procurement Forward Plan	Services/Goods – OJEU Tender Works – Competitive Quotation	Chief Officer in consultation with Theme Committee Chairman Authorisation documentation: Full DPR	If within Budget – Relevant Thematic Committee If within Budget-Full (Chief Officer) DPR If not within Budget – Relevant Thematic Committee	Standstill Notification letter released following statutory officer report review Publication of report post standstill period Signed and sealed contract

	Procurement value	Authorisation to commence a procurement process & documentation	Procurement method	Acceptance process & Documentation	Variation or extension Acceptance & Documentation	Supplier Notification method and contract
E	£500,000 and above	<p>Authorisation documentation:</p> <p>Relevant Theme Committee Decision; or Procurement Forward Plan</p>	<p>Competitive quotation for works contracts for values £500,000 to £4,551,412</p> <p>Works and Concession Contracts: Full OJEU Tender above £4,551,413</p> <p>Goods: Full OJEU Tender</p> <p>Services: Full OJEU Tender Health, educational, cultural and social care related services: Light Touch Regime Tender above. £615,278)</p>	<p>Authorisation documentation:</p> <p>If within Budget- Full DPR (Chief Officer in consultation with Theme Committee Chairman)</p> <p>If not within Budget: Relevant Thematic Committee Report; or Policy and Resources Committee Report</p>	<p>If within Budget – Relevant Thematic Committee</p> <p>If within Budget- Full DPR (Chief Officer in consultation with Theme Committee Chairman)</p> <p>If not within Budget – Relevant Thematic Committee</p>	<p>Standstill Notification letter released following statutory officer report review</p> <p>Publication of report post standstill period</p> <p>Signed and sealed contract</p>

Full 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)
 - (i) Apologies for absence
 - (ii) Declarations of interest
 - (iii) Electing a Mayor and noting the appointment of the 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) Noting the appointment of the Deputy Leader of the Council;
- (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, Vice Chairman and members 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) 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. Apologies for absence
- 2. Elect a member to preside if the Mayor and Deputy Mayor are absent

3. Prayer
4. Declaration of interest
5. Minutes of last meeting
6. Official announcements
7. Any business remaining from last meeting
8. Agree the Council Calendar of meetings including for ordinary meetings of the Council

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

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

Part 3 - Statutory Council Business (60 minutes)

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

Break (15 minutes)

Part 4 – Business for Debate (45 minutes)

15. 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.

If there is more than one motion submitted, the Opposition motion debated will be determined by the Opposition, and the Administration motion will be determined by the Administration.

If more than two motions are submitted then these can be debated if time allows before 10pm at the end of the agenda and with the agreement of the Council. These motions, if any, will be taken in rotation between the Political Parties.

No business shall be transacted after 10 pm and any business transacted after that time shall be null and void, but that at any meeting of Full Council, the Mayor or person presiding as Chairman may with the agreement of Council extend the period for the

transaction of business to 10.30 pm.

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 3 (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 Deputy Mayor will preside.
- 5.3 If the Mayor and Deputy Mayor are absent from the meeting then 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 order of any business may be varied by the Mayor with the consent of Council.

7. SUSPENSION OF PROCEDURE RULES

The Council at any of its meetings may suspend any procedure rule by a majority of the members of the Council present and voting.

8. VALIDITY OF MOTIONS, AMENDMENTS AND QUESTIONS

- 8.1 Every 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 Motion is relevant.
- 8.2 If the Head of Governance has any doubts about any 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 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 MOTIONS AND AMENDMENTS

- 9.1 An amendment must be relevant to a Motion on the agenda and shall be to change the words (including deleting or adding words) but such changes must not merely have the effect of negating the Motion before the Council.
- 9.2 No member may submit more than one amendment to a particular Motion or report on the agenda.
- 9.3 A Member may amend a Motion or report by submitting the amendment in writing to the Head of Governance by 10.30am the working day before the meeting.
- 9.4 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. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

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

- 10.1 appoint a Chairman of the meeting;
- 10.2 question the accuracy of the minutes;
- 10.3 move that an item of business in the summons takes precedence;
- 10.4 appoint a committee (including its members, a Chairman and Vice-Chairman and members having related specified duties);
- 10.5 receive reports or adoption of recommendations of committees and officers and any

resolutions following on from them;

10.6 agree to hear oral representations;

10.7 give leave to withdraw a Motion;

10.8 extend the time limit for speeches;

10.9 move that "the question be now put" (to the vote);

10.10 move that "the debate be now adjourned";

10.11 move that "the Council do now adjourn";

10.12 exclude or to re-admit the press and public under section 100A(4) of the Local Government Act 1972;

10.13 move that a Member be not further heard or exclude them from the meeting;

11 DIVISION AND VOTING

11.1 Division bell

When the mover of an original Motion 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.

12. VOTING

12.1 All motions and amendments shall be determined by a show of hands. 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.

12.2 Decisions shall be taken by a majority of those members present and voting except where specific provisions in this Constitution provide otherwise. Members must be seated in the Chamber when voting and while the vote is being recorded.

12.3 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.

12.4 For the Council budget meeting the minutes shall reflect on how each Member present voted, on any decision relating to the budget or Council tax.

13. VOTE TO BE RECORDED

13.1 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.

14. DIVISION

14.1 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 Motion or amendment;
- (b) abstaining from voting; and
- (c) absent from the meeting when the division was taken.

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

15. VOTING ON APPOINTMENTS

15.1 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.

16. QUESTION TIME

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 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.

16.6 All questions must relate to the Council's powers or duties or matters that affect the borough or its residents.

- 16.7 Every question shall be put and answered without discussion.
- 16.8 An answer will take the form of a written reply circulated two working days before the meeting but the Mayor may allow further comment from the Leader or appropriate Committee Chairman. In the absence of the appropriate Chairman further comment may be allowed from the relevant Vice-Chairman.
- 16.9 One supplementary question and answer will be allowed on the same subject from the same members.
- 16.10 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.

17. GENERAL RULES THAT APPLY TO PARTS 3 AND 4 OF THE MEETING

Rules of Debate

- 17.1 The rules of debate at the meeting are as follows:
- 17.2 Each Motion 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 Motion, 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.
- 17.3 For reports of 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.
- 17.4 Notified amendments may be moved by those speaking in the first part of the debate. After all the amendments have been debated the Motion will be debated. Then the Member, who opened the debate, or his / her nominee, has the right to respond.
- 17.5 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.
- 17.6 The Mayor will then put the item to the vote.

Time for Debate

- 17.7 Each of the first speakers from each Group 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.

- 17.8 For all other items of business (e.g. reports of Committees or from Officers), each of the first two speakers may speak for a maximum of three minutes and all other speakers a maximum of two minutes.
- 17.9 The Mayor may at any time move that more time be allowed for a debate than is shown on the timetable, that an amendment, Motion 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.
- 17.10 The mover of an original Motion shall have a right of reply at the close of the debate on the Motion, immediately before it is put to the vote. If an amendment is moved, the mover of the original Motion has the right to respond or to accept the amendment.

Motions

- 17.11 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 substantially affect the Borough or its residents as opposed to matters of general national relevance which should not be debated.
- 17.12 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.

Members Motions

- 17.13 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 Motion 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 Motion delivered after 10:30am will be recorded as received on the next working day.
- 17.14 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.
- 17.15 The Head of Governance shall set out in the summons for the meeting all Motions in order of receipt.
- 17.16 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.

- 17.17 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.

18 RULES THAT APPLY TO PART 2 OF THE MEETING

Questions on Committee reports

- 18.1 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.

Questions to Council representatives on Outside Bodies

- 18.2 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.
- 18.3 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.
- 18.4 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.
- 18.5 No discussion shall be permitted about any question or the reply to it.
- 18.6 Questions and answers will be recorded.

~~**Public Questions to the Leader of the Council**~~

- ~~18.7 Members of the public are permitted to submit written questions to the Leader in accordance with the following provisions:~~
- ~~• Any question must be delivered in writing, including 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 and subject to the six month rule,~~

- ~~• 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.~~

~~18.8 Every question will be answered in writing. The Leader may decline to answer a question in exceptional circumstances and should include the reason for not answering the question. Any questions not answered will be directed to the next relevant meeting of the themed committee.~~



Constitution and General Purposes Committee

9 April 2019

Title	Local Government Boundary Commission for England - Electoral Review of Barnet Council - Draft Recommendations
Report of	John Hooton - Chief Executive, Electoral Registration Officer and Returning Officer
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A - LGBCE - New electoral arrangements for Barnet Council Draft recommendations - March 2019
Officer Contact Details	<p>Emily Bowler Head of Assurance and Business Development 020 8359 4463 – emily.bowler@barnet.gov.uk</p> <p>John Bailey Head of Electoral Services 020 8359 3008 – john.e.bailey@barnet.gov.uk</p>

Summary

The Local Government Boundary Commission for England (LGBCE) is currently reviewing the electoral arrangements in the London Borough of Barnet. The review will draw new council ward boundaries across Barnet to make sure each councillor represents an equal number of voters.

The LGBCE have recently published its draft recommendations for the new electoral arrangements for Barnet. The Commission have considered all the submissions it received in the previous stages of the review before drawing up the draft recommendations which propose that:

- Barnet's council size remains at 63 councillors (as at present).
- Barnet should move to having 25 wards - four more than there are now.

- The 63 Councillors will represent; 14 three-councillor wards, 10 two-councillor wards and 1 one-councillor ward
- The boundaries of all wards should change, none will stay the same.

From 5 March 2019 to 13 May 2019, the LGBCE are accepting opinions and comments (submissions) from the public on these recommendations for Barnet Council.

Officers Recommendations

- 1. That the Committee consider the draft recommendations from the Local Government Boundary Commission for England on the future electoral arrangements for the Barnet.**
- 2. That the Constitution and General Purposes Committee note the Local Government Boundary Commission for England consultation timescales.**
- 3. That the Committee notes the officers approach to responding this stage of the Electoral Review consultation and are asked to offer any feedback on the practical and technical aspects of the proposals, to inform officers submission.**

1. WHY THIS REPORT IS NEEDED

- 1.1 The Local Government Boundary Commission for England (LGBCE) is undertaking a statutory review of the London Borough of Barnet's electoral arrangements. This will be the first review of the ward boundaries in the borough since 1999.
- 1.2 This compulsory review examines and proposes new electoral arrangements for the whole local authority, and will ultimately decide upon:
 - The total numbers of councillors to be elected to the council (Council Size)
 - The names, numbers and boundaries of council wards
 - The number of councillors to be elected to represent each ward.
- 1.3 The statutory criteria that the LGBCE must apply when making its proposals and decisions are to promote:
 - Electoral equality (a consistent number of electors per councillor)
 - Community identity (strong ward boundaries that reflect communities) and
 - Effective and convenient local government (coherent wards with good internal transport links).
- 1.4 The outcome of the review will be implemented in time to take effect at the Local Government elections scheduled in May 2022 (i.e. these elections will elect councillors to the new wards for the first time).
- 1.5 The Commission have considered all the submissions it received in the two previous stages of the review before drawing up these draft recommendations.
- 1.6 The LGBCE's draft recommendations propose that:
 - Barnet's council size should remain at 63 councillors - as at present.
 - Barnet should move to having 25 wards - four more than there are now.
 - The 63 Councillors will represent; 14 three-councillor wards, 10 two-councillor wards and 1 one-councillor ward
 - The boundaries of all wards will change, none will stay wholly the same.

- 1.7 From 5 March 2019 to 13 May 2019, the LGBCE are accepting opinions and comments (submissions) from the public regarding these draft recommendations for Barnet Council's future electoral arrangements.
- 1.8 The Chief Executive (also acting in his capacity as Barnet's Electoral Registration Officer (ERO) and Returning Officer (RO)) has asked that council officers (led from Electoral Services) review and feedback on the practical and technical aspects of the draft recommendations and, on this basis only, to produce a report that comments upon the proposed new ward boundaries.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The size and scope of this statutory Electoral Review is such that it will affect;
- the number of councillors elected to form the council
 - the boundaries, names and number of all wards, and
 - the electoral representation of all electors and residents by elected members.
- 3.2 The Constitution and General Purposes Committee terms of reference is 'To have responsibility for overseeing the Council's governance arrangements including "Electoral Services including: elections and electoral registration performance; and polling places and polling district boundaries".'
- 3.3 The Chief Executive, in his capacity as Barnet's Electoral Registration Officer and Returning Officer, seeks assurance that the proposed ward boundaries do not include or create any unintended electoral impracticalities (for example; that neighbours within a block of flats are designated as being in different wards and must therefore vote at different polling locations, or that an area containing only two or three properties is captured within a new ward despite having a clear geographical divide or obstruction between them (such as a motorway or railway line for example)).
- 3.4 Overall, for the purposes of this council officer report, feedback upon the LGBCE's proposed ward boundaries will be restricted to consideration of:
- the practicalities of the proposed ward boundaries (for example: checking that proposed ward boundaries do not cut through housing blocks, considering whether suitable polling districts and polling places can be organised within the proposed wards)
 - considering what specific changes to Governance, oversight or the constitution might be necessary under the proposed new wards etc.
 - whether there are any other unexpected implications for operational service delivery or organisational arrangements within the council

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Chief Executive, in his capacity as Barnet's Electoral Registration Officer and Returning Officer, could choose not to instruct that officers review the draft recommendations before the LGBCE proposals are set in law. However, should it then be found that the LGBCE proposals do contain or create electoral impracticalities (or other issues), these issues would then persist unless or until further changes in legislation to resolve them was enacted.

- 3.2 If officers do not review the draft recommendations, the ERO and RO could be put into a situation where they are poorly informed and under prepared in compiling and maintaining the electoral register and/or in the administration and conduct of future elections within the borough. In specific scenarios, poor ward boundaries could lead to eligible electors being disadvantaged when voting at elections, or in extreme cases, being effectively disenfranchised altogether.

4. POST DECISION IMPLEMENTATION

- 4.1 Officers will follow a scheduled programme of activities to ensure that the review of the proposals is comprehensive and robust. This plan will include:
- Utilising geographical data to review precisely where the proposed warding boundaries are intended to run across the borough (for example, how the boundaries follow specific roads, rail lines, open spaces)
 - Comparing the new boundaries to the location of planned developments
 - Officer site visits to follow, examine and clarify proposed ward boundaries throughout the borough
 - Initial consideration and planning for new polling district boundaries and polling place locations necessary within the new proposals
 - Review impact on governance arrangements and the Constitution
 - A series of meetings with service areas across the council and our partners to discuss possible implications of the proposed changes.
- 4.2 Once the Officers have completed their report on the proposals, the CEO (also acting in his capacity as ERO and RO) will consult with the Leaders of the two Political Groups before submitting the technical response to the LGBCE ahead of the deadline on 13 May 2019.
- 4.3 The LGBCE have stated that they will consider all representations made on the draft recommendations and that they will have an open mind about amending the scheme, if an alternative pattern of wards would better meet the statutory criteria that they must follow (shown at 1.3 above).
- 4.4 The LGBCE will publish the final recommendations on 30 July 2019. They will lay a draft order in both Houses of Parliament under the negative resolution procedure. Subject to parliamentary scrutiny, the new electoral arrangements will then come into effect at the borough elections in May 2022.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Corporate Plan - Barnet 2024 has three outcomes for the borough focus on place, people and communities:
- a pleasant, well maintained borough that we protect and invest in
 - our residents live happy, healthy, independent lives with the most vulnerable protected
 - safe and strong communities where people get along well.
- 5.1.2 This LGBCE review of Barnet's electoral arrangements (i.e. council size and ward boundaries) is designed to ensure that the London Borough of Barnet continues to

have an optimal number of elected Members and that wards offer electoral equality to the borough's electors.

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

5.2.1 Subject to the LGBCE's proposal that Barnet retains a council size of 63 councillors, there are no new cost implications arising with regards Elected Member resources or servicing from the Electoral Review.

5.2.2 Following publication of the LGBCE's final recommendations, it will be necessary for Barnet's Electoral Services to review and amend the polling district and polling place arrangements that will be required from May 2022.

5.2.3 Should it be assessed that additional polling places are required, there are likely to be additional costs incurred during the conduct of local elections (costs for elections other than local elections are recovered from the relevant governing body).

5.3 Social Value

5.3.1 Maintaining electoral arrangements that promote electoral equality, strong community identity and effective and convenient local government, ensures that eligible residents can participate in statutory elections and referendums. In turn this ensures that they are properly represented in the democratic processes of the borough and in the decision-making of the Council.

5.4 Legal and Constitutional References

5.4.1 Section 56 of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) requires that the LGBCE review 'from time to time' every principal local authority in England and make recommendations about electoral arrangements (but not their external boundaries).

5.4.2 The Constitution and General Purposes Committee terms of reference includes oversight of "Electoral Services including: elections and electoral registration performance; and polling places and polling district boundaries and to make recommendations thereon to the Council."

5.4.3 The ERO has a duty under Section 9(1) of RPA1983 to maintain:
a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and
b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts

5.4.4 The ERO has a duty under Section 9A of RPA1983 (as amended by the Electoral Registration and Administration Act 2013 (ERA2013)) to take all necessary steps to comply with his duty to maintain the electoral register, and to ensure, as far as is reasonably practicable, persons who are entitled to be registered in the register (and no others) are registered in it.

5.5 Risk Management

- 5.5.1 If ward boundaries are not periodically reviewed to ensure that Barnet has an appropriate number of councillors then there is a risk of there being an inequity in councillors' case work across the borough. Moving ward boundaries and/or creating or removing wards enables ward to contain a broadly consistent number of electors (and residents) in each ward.
- 5.5.2 If, following the review, Barnet's ward boundaries were to include electoral anomalies or impracticalities (that have the effect of isolating small groups of electors, or placing them far from their designated polling place) these issues would persist until legislation to resolve them was enacted.
- 5.5.3 Poor ward boundaries could result in eligible electors being disadvantaged when voting at elections or in extreme cases, being disenfranchised altogether.
- 5.5.4 Should the council fail to engage with the statutory review there is a risk of reputational damage.

5.6 Equalities and Diversity

- 5.6.1 The 2010 Equality Act outlines the provisions of the Public-Sector Equalities Duty which requires Public Bodies to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
 - Advance equality of opportunity between people from different groups
 - Foster good relations between people from different groups.
- 5.6.2 The broad purpose of this duty is to integrate considerations of equality into day business and keep them under review in decision making, the design of policies and the delivery of services.
- 5.6.3 The LGBCE considered the equality implications throughout the boundary review. Officer do not consider that there is any negative impact on equalities.

5.7 Corporate Parenting

- 5.7.1 Not applicable

5.8 Consultation and Engagement

- 5.8.1 The LGBCE are running the public consultation on their draft recommendations (www.lgbce.org.uk/barnet) which is being widely publicised by the Commission and Barnet Council.

5.9 Insight

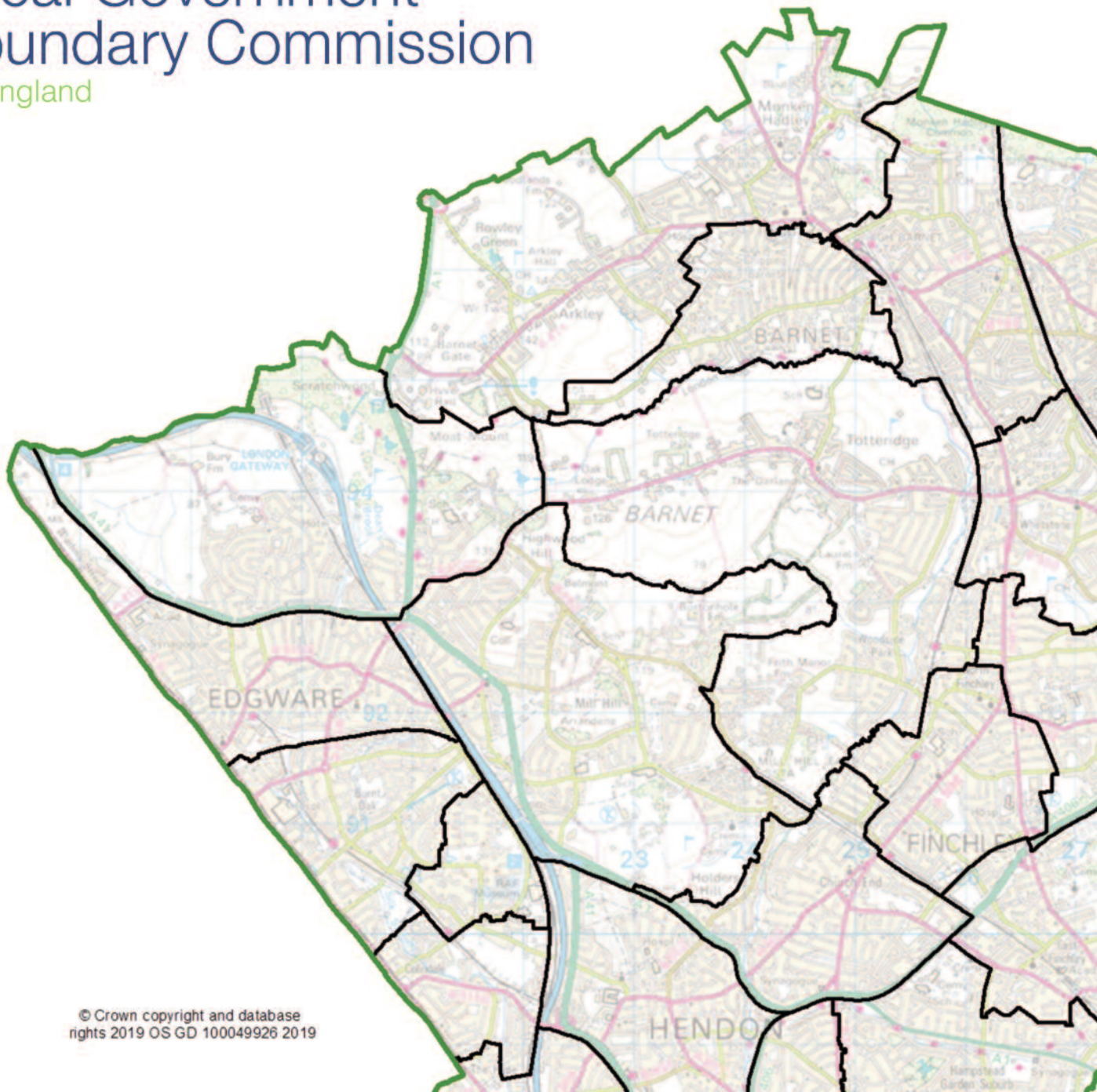
- 5.9.1 The data included in LGBCE report is publicly available via the LGBCE website (www.lgbce.org.uk/barnet).

6. BACKGROUND PAPERS

6.1 [LGBCE New electoral arrangements for Barnet Council Draft recommendations](#)

6.2 [LGBCE - Consultation portal](#)

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New electoral arrangements for Barnet Council

Draft recommendations

March 2019

Translations and other formats:

To get this report in another language or in a large-print or Braille version, please contact the Local Government Boundary Commission for England at:
Tel: 0330 500 1525

Email: reviews@lgbce.org.uk

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A note on our mapping:

The maps shown in this report are for illustrative purposes only. Whilst best efforts have been made by our staff to ensure that the maps included in this report are representative of the boundaries described by the text, there may be slight variations between these maps and the large PDF map that accompanies this report, or the digital mapping supplied on our consultation portal. This is due to the way in which the final mapped products are produced. The reader should therefore refer to either the large PDF supplied with this report or the digital mapping for the true likeness of the boundaries intended. The boundaries as shown on either the large PDF map or the digital mapping should always appear identical.

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Introduction

Who we are and what we do

1 The Local Government Boundary Commission for England (LGBCE) is an independent body set up by Parliament¹. We are not part of government or any political party. We are accountable to Parliament through a committee of MPs chaired by the Speaker of the House of Commons. Our main role is to carry out electoral reviews of local authorities throughout England.

2 The members of the Commission are:

- Professor Colin Mellors OBE (Chair)
- Susan Johnson OBE
- Peter Maddison QPM
- Amanda Nobbs OBE
- Steve Robinson
- Andrew Scallan CBE
- Jolyon Jackson CBE (Chief Executive)

What is an electoral review?

3 An electoral review examines and proposes new electoral arrangements for a local authority. A local authority's electoral arrangements decide:

- How many councillors are needed.
- How many wards or electoral divisions there should be, where their boundaries are and what they should be called.
- How many councillors should represent each ward or division.

4 When carrying out an electoral review the Commission has three main considerations:

- Improving electoral equality by equalising the number of electors that each councillor represents.
- Ensuring that the recommendations reflect community identity.
- Providing arrangements that support effective and convenient local government.

5 Our task is to strike the best balance between these three considerations when making our recommendations.

¹ Under the Local Democracy, Economic Development and Construction Act 2009

6 More detail regarding the powers that we have, as well as the further guidance and information about electoral reviews and review process in general, can be found on our website at www.lgbce.org.uk.

Why Barnet?

7 We are conducting a review of Barnet Council ('the Council') as its last review was completed in 1999 and we are required to review the electoral arrangements of every council in England 'from time to time'². In addition, the value of each vote in borough council elections varies depending on where you live in Barnet. Some councillors currently represent many more or fewer voters than others. This is 'electoral inequality'. Our aim is to create 'electoral equality', where votes are as equal as possible, ideally within 10% of being exactly equal.

8 This electoral review is being carried out to ensure that:

- The wards in Barnet are in the best possible places to help the Council carry out its responsibilities effectively.
- The number of voters represented by each councillor is approximately the same across the borough.

Our proposals for Barnet

9 Barnet should be represented by 63 councillors, the same number as there are now.

10 Barnet should have 25 wards, four more than there are now.

11 The boundaries of all wards should change; none will stay the same.

How will the recommendations affect you?

12 The recommendations will determine how many councillors will serve on the Council. They will also decide which ward you vote in, and which other communities are in that ward. Your ward name may also change.

13 Our recommendations cannot affect the external boundaries of the borough or result in changes to postcodes. They do not take into account parliamentary constituency boundaries. The recommendations will not have an effect on local taxes, house prices, or car and house insurance premiums and we are not able to consider any representations which are based on these issues.

² Local Democracy, Economic Development & Construction Act 2009 paragraph 56(1)

Have your say

14 We will consult on the draft recommendations for a 10-week period, from 5 March to 13 May 2019. We encourage everyone to use this opportunity to comment on these proposed wards as the more public views we hear, the more informed our decisions will be in making our final recommendations.

15 We ask everyone wishing to contribute ideas for the new wards to first read this report and look at the accompanying map before responding to us.

16 You have until 13 May 2019 to have your say on the draft recommendations. See page 28 for how to send us your response.

Review timetable

17 We wrote to the Council to ask its views on the appropriate number of councillors for area. We then held a period of consultation with the public on warding patterns for the borough. The submissions received during consultation have informed our draft recommendations.

18 The review is being conducted as follows:

Stage starts	Description
18 September 2018	Number of councillors decided
25 September 2018	Start of consultation seeking views on new wards
3 December 2018	End of consultation; we begin analysing submissions and forming draft recommendations
5 March 2019	Publication of draft recommendations; start of second consultation
13 May 2019	End of consultation; we begin analysing submissions and forming final recommendations
30 July 2019	Publication of final recommendations

Analysis and draft recommendations

19 Legislation³ states that our recommendations should not be based only on how many electors⁴ there are now, but also on how many there are likely to be in the five years after the publication of our final recommendations. We must also try to recommend strong, clearly identifiable boundaries for our wards.

20 In reality, we are unlikely to be able to create wards with exactly the same number of electors in each; we have to be flexible. However, we try to keep the number of electors represented by each councillor as close to the average for the council as possible.

21 We work out the average number of electors per councillor for each individual local authority by dividing the electorate by the number of councillors, as shown on the table below.

	2018	2024
Electorate of Barnet	250,294	273,174
Number of councillors	63	63
Average number of electors per councillor	3,973	4,336

22 When the number of electors per councillor in a ward is within 10% of the average for the authority, we refer to the ward as having 'good electoral equality'. All of our proposed wards for Barnet will have good electoral equality by 2024.

Submissions received

23 See Appendix C for details of the submissions received. All submissions may be viewed at our offices by appointment, or on our website at www.lgbce.org.uk

Electorate figures

24 The Council submitted electorate forecasts for 2024, a period five years on from the scheduled publication of our final recommendations in 2019. These forecasts were broken down to polling district level and predicted an increase in the electorate of around 9% by 2024.

25 During the course of the consultation period it was brought to our attention that the Council's electorate figures included a group of overseas electors ineligible to vote in local elections. In discussion with the Council, we have removed these electors from the published electorate figures. In addition, during our formulation of

³ Schedule 2 to the Local Democracy, Economic Development and Construction Act 2009.

⁴ Electors refers to the number of people registered to vote, not the whole adult population.

the draft recommendations, we noted that two development sites had been allocated to the wrong polling districts. The figures have now been revised to ensure the sites are in the correct polling district. However, as a result, the forecast growth has fallen by approximately 500 electors as each site had a slightly different elector-per-household ratio under the Council's forecast methodology.

26 Finally, we note the concerns of the Barnet Conservatives over the potential impact on the electoral forecasts over delays to the Brent Cross North scheme. However, we must be cautious in revisiting the electorate figures continuously through the review. Therefore, subject to the amendments identified above, we remain satisfied that the projected figures are the best available at the present time. We have used these figures to produce our draft recommendations.

Number of councillors

27 Barnet Council currently has 63 councillors. We have looked at evidence provided by the Council and have concluded that keeping this number the same will ensure the Council can carry out its roles and responsibilities effectively.

28 We therefore invited proposals for new patterns of wards that would be represented by 63 councillors.

29 In response to our consultation on ward patterns we received a number of general comments in support of, or objecting to this proposed council size, but no significant new evidence was received. We are therefore basing the draft recommendations on a 63-councillor council.

Ward boundaries consultation

30 We received 31 submissions in response to our consultation on ward boundaries. These included two borough-wide proposals from Barnet Conservatives (the Conservatives) and a joint submission from the Labour Group on Barnet Council and the Barnet Labour Party (Labour). The Conservatives proposal was based on 63 councillors with a mixed pattern of single-, two- and three-member wards. In a number of areas there were discrepancies between the text, maps and figures for their proposals. To assist, we provided the Conservatives with a digitised version of their proposals. We also produced a set of electorate figures that sought to reconcile the text, maps and figures and provided by the Conservatives. These figures demonstrated that, in a number of areas the proposed wards would have high electoral variances and differed from those quoted in their submission. Labour proposed a uniform pattern of 21 three-councillor wards, with all wards securing good levels of electoral equality.

31 We also received a number of submissions focusing on specific areas, including the Cricklewood, Garden Suburb, Childs Hill, Golders Green, Mill Hill and Muswell Hill areas.

32 We carefully considered the proposals received and are basing the draft recommendations on a mixture of the Conservative and Labour proposals, along with a number of our own proposals. While we recognise Labour's preference for a uniform pattern of three-councillor wards, the legislation does not require this for London Boroughs. We also note that the Conservatives proposed a mixed pattern of wards. Our draft recommendations have taken account of the localised evidence we received, which provided information about community links and locally recognised boundaries. In some areas we considered that the proposals did not provide for the best balance between our statutory criteria and so we identified alternative boundaries. In a number of cases we have been persuaded to move away from the current uniform pattern of three-member wards.

33 We also visited the area in order to look at the various different proposals on the ground. This visit to Barnet helped us to decide between the different boundaries proposed.

Draft recommendations

34 Our draft recommendations are for 14 three-councillor wards, 10 two-councillor wards and one one-councillor ward. We consider that our draft recommendations will provide for good electoral equality while reflecting community identities and interests where we received such evidence during consultation.

35 The tables and maps on pages 7–27 detail our draft recommendations for each area of Barnet. They detail how the proposed warding arrangements reflect the three statutory⁵ criteria of:

- Equality of representation.
- Reflecting community interests and identities.
- Providing for effective and convenient local government.

36 A summary of our proposed new wards is set out in the table starting on page 27 and on the large map accompanying this report.

37 We welcome all comments on these draft recommendations, particularly on the location of the ward boundaries, and the names of our proposed wards.

⁵ Local Democracy, Economic Development and Construction Act 2009.

East Barnet



Ward name	Number of councillors	Variance 2024
Brunswick Park	3	1%
East Barnet	3	0%

Brunswick Park and East Barnet

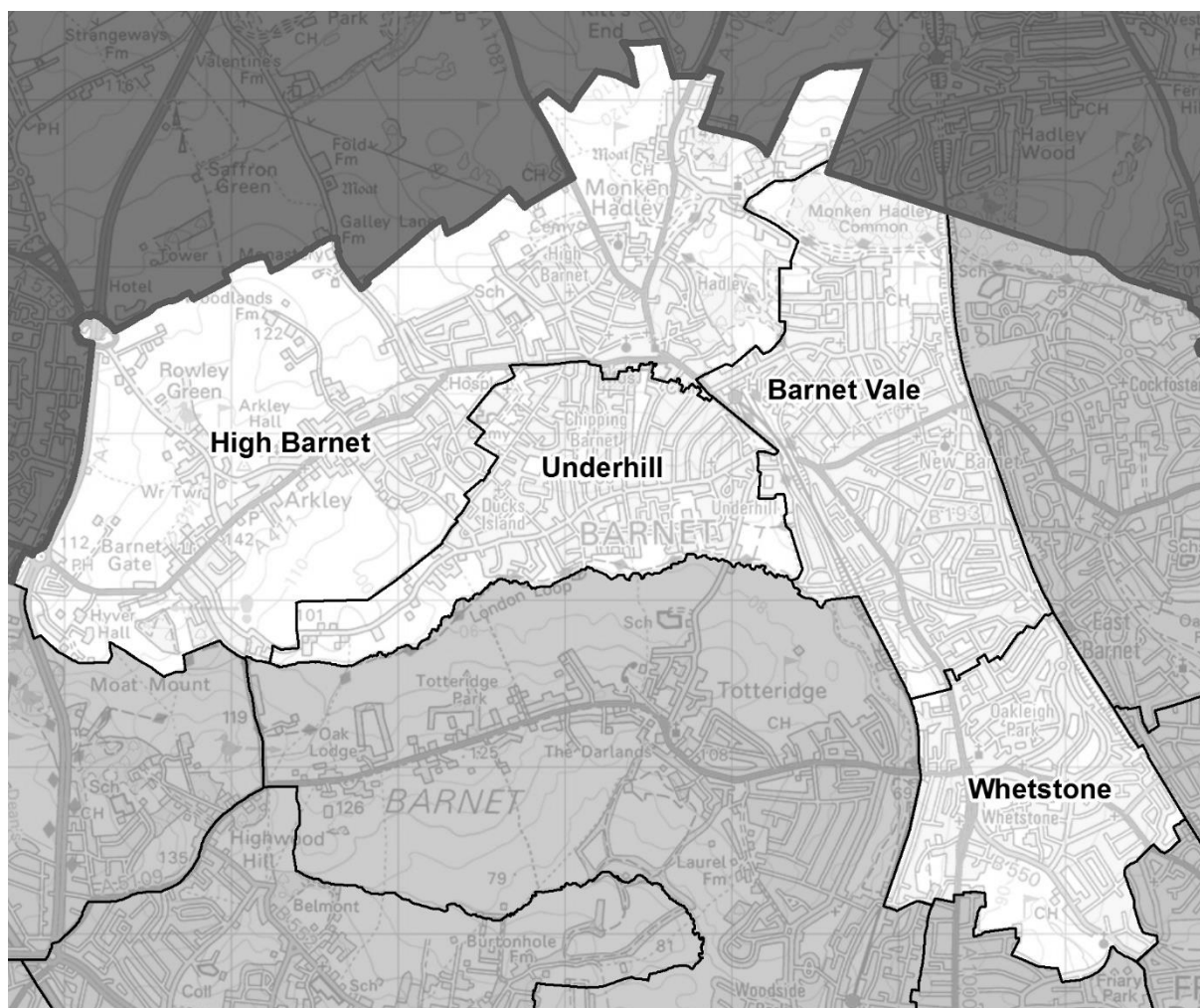
38 Our proposals for this area are based on the Labour proposals for the three-councillor wards of Brunswick Park and East Barnet. While the Conservative and Labour proposals for this area were broadly similar, we had concerns about the

Conservatives' proposal to transfer the area to the west of Oakleigh South Road to their Friern Barnet ward. We note they stated that this area associates strongly with Friern Barnet, but our visit to the area suggested that it has better access into Brunswick Park. Therefore, we are not adopting this boundary. We are, however, adopting the Labour amendment to the existing boundary between Brunswick Park and East Barnet as this improves electoral equality, while still using a strong boundary.

39 We note the suggestion from a local resident that the whole of New Barnet should be in a single ward. However, this would require a significant redrawing of the boundaries throughout the area and may not secure good electoral equality across this area. While we acknowledge these concerns, we do not consider there to be sufficient evidence to support this proposal, so we are not adopting it as part of our draft recommendations.

40 We also note the argument from a resident that Parkside Gardens should be in East Barnet ward, but we consider that Parkside Gardens is separated from East Barnet by the strong boundary formed by Oak Hill Park. Finally, we propose moving away from the existing ward boundary around Beresford Avenue to tie it to the railway line.

North Barnet



Ward name	Number of councillors	Variance 2024
Barnet Vale	3	-5%
High Barnet	2	6%
Underhill	2	5%
Whetstone	2	-4%

Barnet Vale, High Barnet and Underhill

41 Our draft recommendations for these wards are based on our own proposals and elements of the Conservative proposals. We note that Labour proposed retaining the existing three-councillor wards, subject to a number of minor amendments to improve electoral equality and strengthen the boundaries. However, the Conservatives and two residents argued that the New Barnet area of the existing High Barnet ward is focused around Station Road and that New Barnet extends to the area to the east of the railway in East Barnet ward. As a result, the New Barnet area is divided between three wards. We also note that one of the Labour modifications placed Station Road in their High Barnet ward.

42 Our visit to the area has led us to consider that the existing High Barnet ward, which stretches from Arkley, through High Barnet as far as areas of New Barnet, may not provide the strongest reflection of community links. We consider that a ward based around the New Barnet area would reflect local community ties.

43 To achieve this, the Conservatives proposed moving away from the existing pattern of three-member wards for this area. However, as mentioned earlier in this report, we noted a number of elector count discrepancies in their figures. To assist, we provided the Conservatives with a digitised version of their proposals. We also produced a set of electorate figures that sought to reconcile their text, maps and figures and provided these to the Conservatives. These showed that their proposed Barnet Hill ward had significantly higher levels of electoral inequality than those quoted in their submission. We have therefore explored our own warding pattern for this area.

44 We propose a two-councillor High Barnet ward comprising Arkley and High Barnet. We also propose that the area to the east of High Barnet Underground Station be placed in a three-councillor Barnet Vale ward. The High Barnet ward will include the areas around Quinta Drive and Elmbank Avenue. Although these areas clearly have good access into to the adjoining areas in our proposed Underhill ward, they also have good access into the Arkley and High Barnet areas. The Conservatives proposed transferring the caravan park to the west of the A1 into its proposed Edgwarebury & Highwood Hill ward. However, our visit to the borough suggested that this area would be better placed in High Barnet ward, along with the caravan park to the east of the A1.

45 To ensure good electoral equality in our proposed two-councillor Underhill ward, we are transferring the Fairfield Way, Grasvenor Avenue and Sherrards Way areas into a three-councillor Barnet Vale ward. We acknowledge that these roads have links into Underhill ward and High Barnet, but we note they also share clear links into the New Barnet area via Great North Road. Finally, to further improve electoral equality between High Barnet and Underhill wards we are running the boundary behind the shops on Wood Street and High Street, placing the whole of the High Barnet retail area in High Barnet ward. This improves electoral equality in our proposed ward to 5% more electors per councillor than the borough average by 2024 and places the whole retail area in a single ward. We would particularly welcome local views on our proposals for this area during the current consultation.

46 We also acknowledge that our High Barnet ward does not contain High Barnet station. While it may be possible to extend the boundary to include this, we are currently not persuaded that it would provide a clear ward boundary. Again, we would welcome local views.

47 As stated above, we are creating a three-councillor Barnet Vale ward based around Station Road in New Barnet. We note the argument that New Barnet straddles the railway line, but do not consider it is possible to create a ward that takes account of this and secures good electoral equality in the wider area. Therefore, we propose that the area to the east of the railway remains in East Barnet ward. Overall, we consider that our proposals for these wards will ensure that New Barnet is no longer divided between three wards. To secure good electoral equality, our proposed Barnet Vale ward extends south to Buckingham Avenue.

Whetstone

48 We have based our two-councillor Whetstone ward on the Labour proposals, subject to a modification to reflect our proposals in the adjoining Barnet Vale area. The Conservative and Labour proposals agreed about the south west boundary of this ward, using the existing boundary around the North Middlesex Golf Course and Friary Park. However, to the south east the Conservatives proposed retaining the existing boundary, while Labour proposed transferring an area around Manor Drive and Oakleigh Road North to Coppetts ward. We acknowledge that this area has good links north into the majority of Whetstone ward. However, adopting this proposal would mean that Whetstone ward would have an electoral variance of 13% by 2024. We do not consider that this poor level of electoral equality can be justified so it is necessary to transfer the area into our proposed Coppetts ward. Our visit to the area also confirmed that this area has clear transport links south into Coppetts ward.

49 A local resident argued that the area to the east of High Road should be in Oakleigh ward (which covers some of the same area as our proposed Whetstone ward), and not Totteridge. The Labour proposal used Dollis Brook to the west as a ward boundary, while the Conservatives used the railway line. We propose using the railway line to ensure the whole of the Dollis Valley Green Walk is in a single ward.

Coppetts, Finchley, Muswell Hill and Woodhouse



Ward name	Number of councillors	Variance 2024
Coppetts	2	1%
Finchley Church End	3	4%
Muswell Hill	1	-2%
West Finchley	3	-4%
Woodhouse	2	-2%

Finchley Church End and West Finchley

50 We are basing the wards for this area primarily on our own proposals, but with elements of the Conservative proposals. We had a number of concerns with the Labour proposals for this area. Firstly, we were not persuaded that the area around Mill Hill East Underground Station should be included in their proposed Dollis ward, which also includes parts of Finchley. In addition, while we acknowledge their proposal to transfer an area of the existing Finchley Church End to their proposed Garden Suburb ward to improve electoral equality in the area to the south of the A406, our visit to the area confirmed that this area only has limited links with

Hampstead Garden Suburb. Therefore, we are not adopting either of these proposed wards.

51 We have carefully considered the Conservatives' proposals. However, we noted a number of discrepancies between the text, maps and figures in their submission. To assist, we provided the Conservatives with a digitised version of their proposals. We also produced a set of electorate figures based on our analysis of their proposals. These showed that their proposed Finchley Central and Finchley West wards had significantly higher levels of electoral inequality than those quoted in the submission.

52 As stated above, we noted that the wards to the south of the A406 had too few electors, so considered it necessary to transfer an area from the north to the south. Following our visit to the borough, we concluded that the area to the south of Squires Lane has reasonable links into East Finchley ward under the A406 via Long Lane, and across the junction on the A1000 High Road. Transferring this area has a consequential effect on the remainder of Finchley, particularly the Conservative's proposal which placed some of this area in their Finchley Church End ward.

53 As a result, we have drawn up our own proposals for these wards. We note the Conservative's opposition to transferring any of Ballards Lane into a Finchley Church End ward. We also recognise the argument that the Hendon Lane and Regents Park Road area of Church End is the historic centre of this community and distinct from the Ballards Lane area. However, to secure good electoral equality it is necessary to move some electors from north to south or vice versa. We are proposing a three-councillor Finchley Church End ward bounded by the A406 and A1 to the south and east, and Hendon Cemetery & Crematorium and Hendon Golf Club to the west. To the north the boundary will run along the Northern Line as far as Ballards Lane. It will then take in the electors to the south-west of Lover's Walk, around Nether Street and Gordon Road. This area has access south into Finchley Church End ward via Nether Lane and Regents Park Road.

54 To the north we are proposing a three-councillor West Finchley ward. This combines the Conservative's West Finchley and Finchley Central wards, but removes the area to the east of the A1000 around North Finchley Library and Torrington Park. We concur with Labour that this area is best retained in Woodhouse ward, along with the area to the west of the A1000. We are also transferring a small section around Argyle Road into our proposed Totteridge ward to secure improved electoral equality there. This area has good access into Woodside via Argyle Road. To the south-east of our proposed West Finchley ward, we consider that the Conservatives' proposal to include the areas around Finchley Memorial Hospital and Finchley Lido Leisure Centre in a Finchley ward better reflect communities than the Labour proposal to include them in Woodhouse ward. Finally, as discussed above, we are transferring the area south of Squires Lane to East Finchley ward.

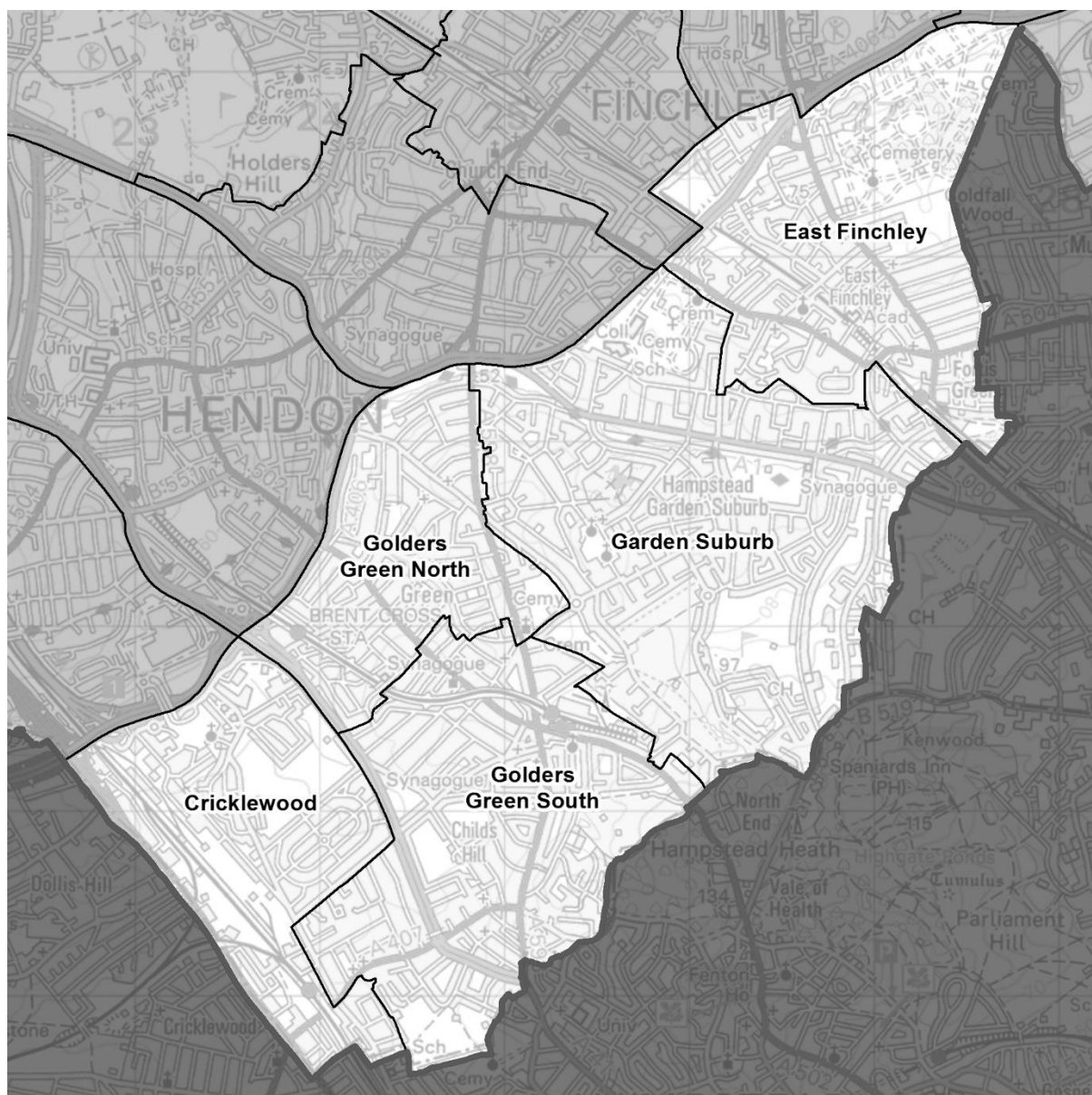
Coppetts, Muswell Hill and Woodhouse

55 We are basing our proposals for this area on a mixture of the Conservative and Labour proposals. The Conservatives proposed a three-councillor Friern Barnet ward and single-councillor Muswell Hill ward. While their Muswell Hill ward is unaffected by the changes elsewhere, given our proposals in adjoining areas and the need to ensure good electoral equality, we are not persuaded to adopt their proposed Friern Barnet ward.

56 However, following our visit to the area, we have been persuaded that Muswell Hill should be a single-councillor ward. The A406 is a clear divide between communities either side of the road and the area has no other transport routes into the borough. We do, however, have some reservations about a single-councillor ward from the perspective of convenient and effective local government. We would therefore particularly welcome local views on our proposed single-councillor Muswell Hill ward during this round of consultation.

57 In the remaining area, we are basing our recommended wards on the Labour proposals, subject to amendments. In light of the creation of a single-councillor Muswell Hill ward, Labour's proposed Coppetts ward is entitled to two-councillors. Therefore, we propose a two-councillor Coppetts ward. To the west, and given our proposal to include the area around Finchley Memorial Hospital and Finchley Lido Leisure Centre in West Finchley ward, we are recommending a two-councillor Woodhouse ward. Our proposed Woodhouse ward will include the area around the A1000 near North Finchley Library.

Cricklewood, East Finchley, Golders Green and Garden Suburb



Ward name	Number of councillors	Variance 2024
Cricklewood	2	-7%
East Finchley	3	-2%
Garden Suburb	2	6%
Golders Green North	2	-3%
Golders Green South	3	-5%

East Finchley and Garden Suburb

58 We are basing the draft recommendations for this area on our own proposals, with elements of the existing wards and elements of the Conservative proposals. We have considered the Labour proposals but have a number of concerns, particularly

with their Garden Suburb ward. We acknowledge the need to transfer some electors from north of the A406 to the south to improve overall electoral equality. However, our visit to the area confirmed that the area Labour proposed transferring only has limited community links to the Garden Suburb. In addition, we note that their proposed Garden Suburb ward takes in areas far to the south of the existing ward including the Childs Hill area on the borough boundary. We do not consider that this reflects local community identities, so we are not adopting this ward as part of our draft recommendations. In addition, given our decision to transfer an area to the south of Squires Lane to East Finchley ward, we are unable to consider their East Finchley ward, as it would contain too many electors.

59 We have considered the Conservative proposals for this area. However, because of our decision to transfer the area to the south of Squires Lane to East Finchley, their proposed two-councillor ward would have too many electors. Retaining a two-councillor ward would require the transfer of part of East Finchley ward to the east of the railway line to Garden Suburb ward which we do not consider would reflect community links. Therefore, we are proposing a modified version of the existing three-councillor East Finchley ward. This would exclude the roads around Brim Hill and return them to Garden Suburb ward. We carefully considered whether to include parts of Ossulton Way and Neale Close in Garden Suburb ward but concluded that this would worsen electoral equality further.

60 Our proposed two-member Garden Suburb ward does not include properties along Finchley Road and around Golders Green Station which we consider have stronger links with Golders Green than the Garden Suburb. Furthermore, our two-councillor ward would comprise most of the area represented by the Hampstead Garden Suburb Trust.

Cricklewood, Golders Green North and Golders Green South

61 We are basing the draft recommendations for these wards on modified versions of the Conservative proposals. Our recommendations for a Garden Suburb ward mean that the Labour proposals for Golders Green and Claremont & Childs Hill wards would need to be significantly amended to absorb the electors removed from their Garden Suburb ward. Therefore, we have not considered their proposals further.

62 The Conservatives proposed two-councillor Golders Green North, Golders Green South and Cricklewood wards. However, as stated earlier, our analysis of their electorate figures shows that their proposed Golders Green South ward had a notably higher electoral variance than the figure quoted in their submission.

63 In addition, two local residents proposed a three-councillor Cricklewood ward based on the draft recommendations from the last electoral review – these were not implemented as the final recommendations modified the proposals for this area.

Another resident that proposed a Cricklewood ward take in areas to the east of the A41 and south of Brent Cross, while another said the A41 should be the ward boundary.

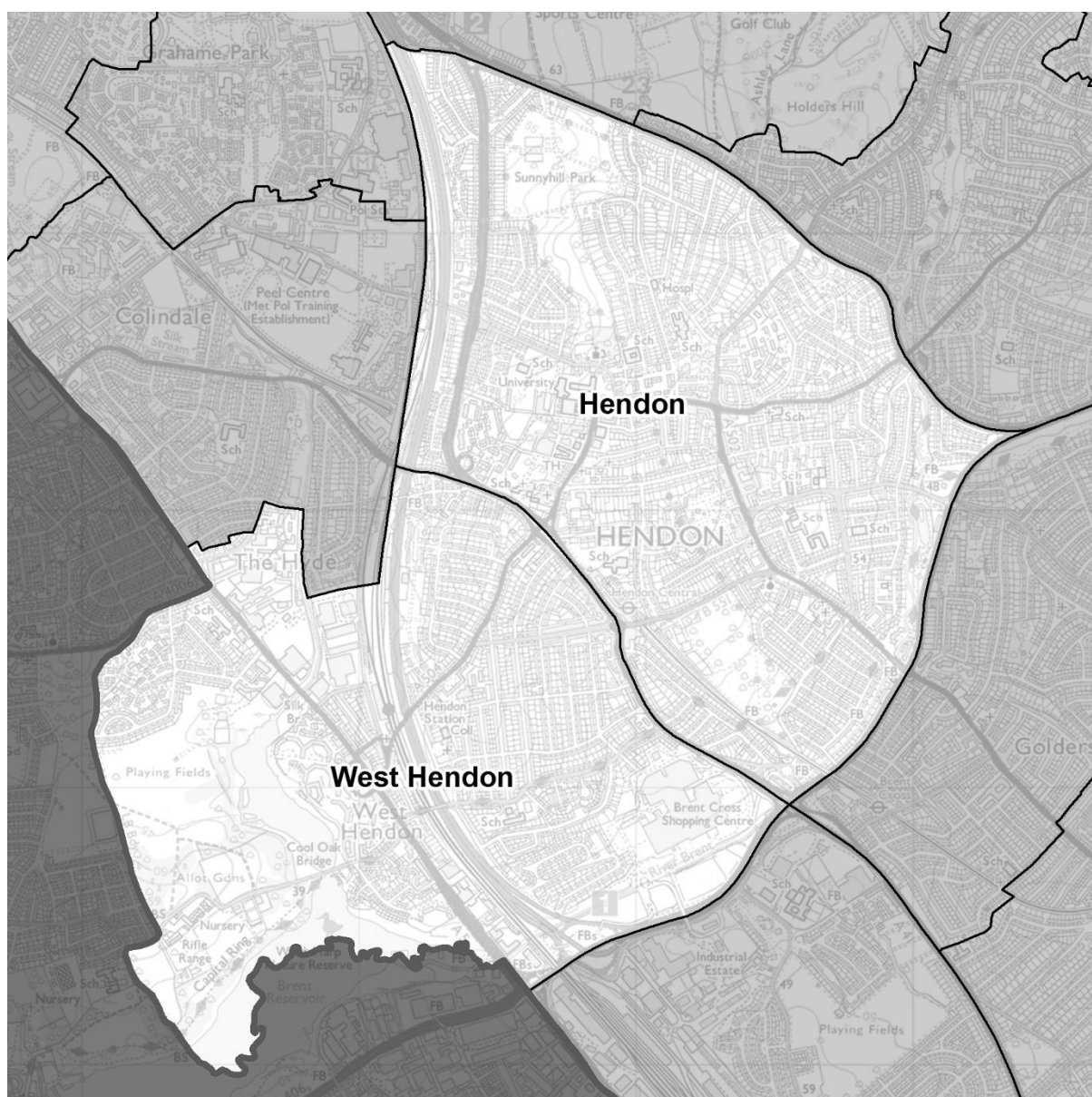
64 We note the concerns of the local residents that the Cricklewood area is divided by the existing ward. Firstly, it not possible to secure good electoral equality using the A41 as a boundary. We note that the Conservatives' proposal divides Cricklewood by including the area to the west of the A41 in Golders Green South ward. We have looked whether it is possible to create a three-councillor Cricklewood ward, taking in an area to the east of the A41. However, in order to secure good electoral equality for the remainder of the Golders Green area, we would have to include a very small section of the Childs Hill area around Finchley Road and Cricklewood Lane. We do not consider that this would reflect community identities or interests in this area.

65 We acknowledge the concerns about the Cricklewood area. However, because the area lies at the edge of the borough our scope to consider alternatives are limited and it is necessary to create a ward that crosses the A41. On balance, we consider that the Conservative proposals for a two-councillor Cricklewood ward provide the best warding pattern for this area, although we propose a minor amendment around The Vale to ensure a clearer ward boundary while also improving electoral equality.

66 In the remainder of this area, we have decided to modify the Conservatives' proposals for the two-councillor wards of Golders Green North and Golders Green South. We propose a three-councillor Golders Green South ward taking in the whole of the Golders Green retail area on Golders Green Road. This ward would also contain Golders Green Station. We propose modifications to the two-councillor Golders Green North ward, reducing the area slightly to accommodate the three-councillor Golders Green South ward.

67 A local resident proposed renaming Golders Green ward as Brent Cross. However, we do not consider there to be sufficient evidence to support this and we note that the Conservatives and Labour both proposed wards named Golders Green. We consider that this ward name reflects the local community and is understood locally. We are therefore not adopting this proposal.

Hendon



Ward name	Number of councillors	Variance 2024
Hendon	3	4%
West Hendon	3	-4%

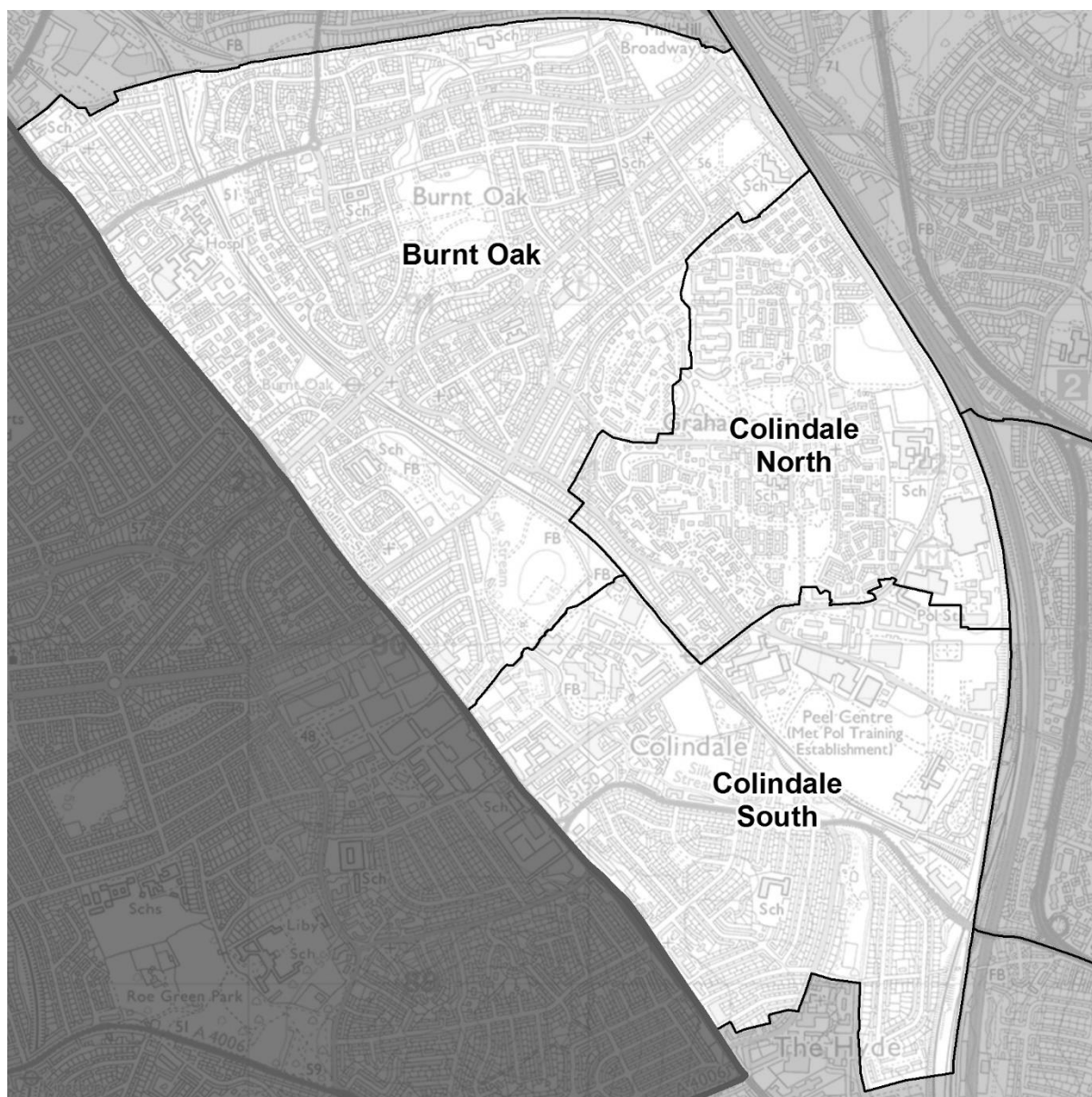
Hendon and West Hendon

68 We are basing the draft recommendations for Hendon on a modified version of the Labour proposals. The Conservatives and Labour both proposed three-councillor Hendon and Hendon West wards for this area. However, the Labour proposals secured better levels of electoral equality, with electoral variances of 1% and 0% respectively by 2024, versus 0% and -8% under the Conservatives' proposal.

69 We note that the Labour proposal secured better electoral equality in part because they included the development around The Hyde in their West Hendon ward. Our visit to the area confirmed that this area, while being in the south of Colindale, also has good links into West Hendon. However, our visit to the area also suggested that, while Labour's proposal to include the Cheyne Walk area in their West Hendon ward improves electoral equality, it may not reflect community links. This area is somewhat isolated between the A41 Hendon Way and the railway line, but its access routes into West Hendon seemed somewhat poor. On balance, although retaining this area in the Hendon ward increases the electoral variances in Hendon and Hendon West wards to 4% and -4% respectively by 2024, we consider the stronger ward boundary justifies this. Therefore, we are including this area in our Hendon ward.

70 We note the comments from two residents that Colin Crescent should be included in a Hendon ward. This would also require the transfer of Colin Gardens and Colin Drive which are part of the same area as Colin Crescent located between the M1 and Rushgrove Park. However, we are not persuaded that this area should be moved, noting that it has clear links into our Colindale South ward. A local resident argued that Hendon and West Hendon wards should be renamed University and Hendon Waterside. We were not persuaded that we had received evidence to support these proposed ward names. We are therefore retaining the ward names of Hendon and West Hendon as part of our draft recommendations.

Burnt Oak and Colindale



Ward name	Number of councillors	Variance 2024
Burnt Oak	3	3%
Colindale North	2	4%
Colindale South	3	3%

Burnt Oak, Colindale North and Colindale South

71 We are basing the draft recommendations for this area on our own proposals, although the northern boundary of Burnt Oak ward is based on the Conservative's proposal, while the southern boundary of Colindale South is based on the Labour proposal.

72 During our consideration of this area, it came to our attention that the Council had misallocated two significant areas of development to the wrong polling districts. As discussed in the Electorate figures section above, the figures have now been revised to ensure the sites are allocated to the correct polling district. However, as a result, the forecast growth has fallen by around 500 electors as each site had a slightly different elector-per-household ratio under the Council's forecast methodology. As a result, the Conservatives proposed Colindale East and Colindale West wards would have 22% more and 23% fewer electors than the borough average by 2024. These variances were further exacerbated by the discrepancies we highlighted in the electorate figures provided in their submission. As a result, their Burnt Oak ward would have 17% fewer electors than the borough average by 2024.

73 The Labour proposals were less affected by the amendments to the forecast figures for this area and their Colindale North and Colindale South wards would have 4% more and 8% fewer electors per councillor respectively, by 2024. Their Burnt Oak ward would have 1% more electors. However, we had concerns that their proposal to extend Burnt Oak ward north to Deansbrook and taking in areas of Edgware would not reflect community identities.

74 Therefore, in this area we have developed our own proposals. As discussed in the Hendon section of this report, we are adopting the Labour proposal to put The Hyde development in West Hendon ward. In light of this, and because of the changes to the forecast electorate figures, we are proposing a three-councillor Colindale South ward and two-councillor Colindale North ward. Our proposed Colindale South ward would comprise the whole area to the south of the Northern Line, as far as Montrose playing fields. It would also include the remainder of the Beaufort Park development up to Grahame Park Way and the whole of the Peel Centre development. Our proposed two-councillor Colindale North ward would cover the area to the north of Grahame Park Way, up to the Orion Primary School.

75 Our three-councillor Burnt Oak ward would extend as far north as the Mill Hill Old Railway nature reserve, which we consider forms a clear boundary between this area and Edgware. We have decided to use the M1 motorway and the railway as the eastern boundary here, rather than transferring any of the area of Bunn's Lane to the east of the motorway to a Mill Hill ward. As with the Conservative and Labour proposals, Burnt Oak ward would be centred around Burnt Oak and include the Watling Estate.

Mill Hill and Totteridge



Ward name	Number of councillors	Variance 2024
Mill Hill	3	0%
Totteridge & Woodside	3	-6%

Mill Hill

76 We are basing our draft recommendations for Mill Hill on the Conservative proposals, subject to an amendment. Labour proposed a significantly different three-councillor Mill Hill ward centred on Mill Hill Broadway and the Apex Corner roundabout. However, their proposed ward excluded Mill Hill village which they proposed be placed in their Totteridge Valley ward. We note their argument for basing their ward around Mill Hill Broadway and the Apex Corner Roundabout. While

we acknowledge that these areas have access to each other across the M1 motorway and railway line that cuts through the area, our visit suggested these still remain a significant barrier. In addition, we note their argument that including Mill Hill village in Totteridge Valley ward means this semi-rural area will be in a ward with other similar areas. However, we also consider the evidence from the Conservatives for retaining this integral part of Mill Hill in Mill Hill ward to be stronger.

77 We note the suggestion from the Mill Hill Neighbourhood Forum for a three-councillor Mill Hill North ward and three-councillor Mill Hill South ward, covering the existing Mill Hill ward and the NW7 postcode area of the existing Hale ward. Unfortunately, the area described does not contain sufficient electors for six councillors and would therefore result in poor levels of electoral equality.

78 We are adopting the Conservative's proposed three-councillor Mill Hill ward subject to two amendments. We have decided to use the motorway as a ward boundary. On our visit to the area, we considered it to provide a clearly identifiable feature on which to base a ward boundary. Finally, we are retaining the whole of Buttonhole Farm in the Mill Hill ward as its accesses into this ward and not Totteridge & Woodside ward. This also improves electoral equality in Mill Hill ward from 4% more electors per councillor to 0%, by 2024.

79 We agree with the Conservatives that it is necessary to remove the Millbrook Park development from Mill Hill ward. This area will contain too many new electors to secure good electoral equality if retained in Mill Hill ward. We have concluded that it should be placed in Totteridge & Woodside ward to help minimise electoral variances there. Our visit to the area confirmed that the development has reasonable access into Woodside Park.

80 A local resident argued that Mill Hill ward should be named Inglis, reflecting the former barracks at Inglis Way. However, we have not received any other evidence in support of this ward name and consider the existing name of Mill Hill to be a long-standing one which is recognised and understood by the local community.

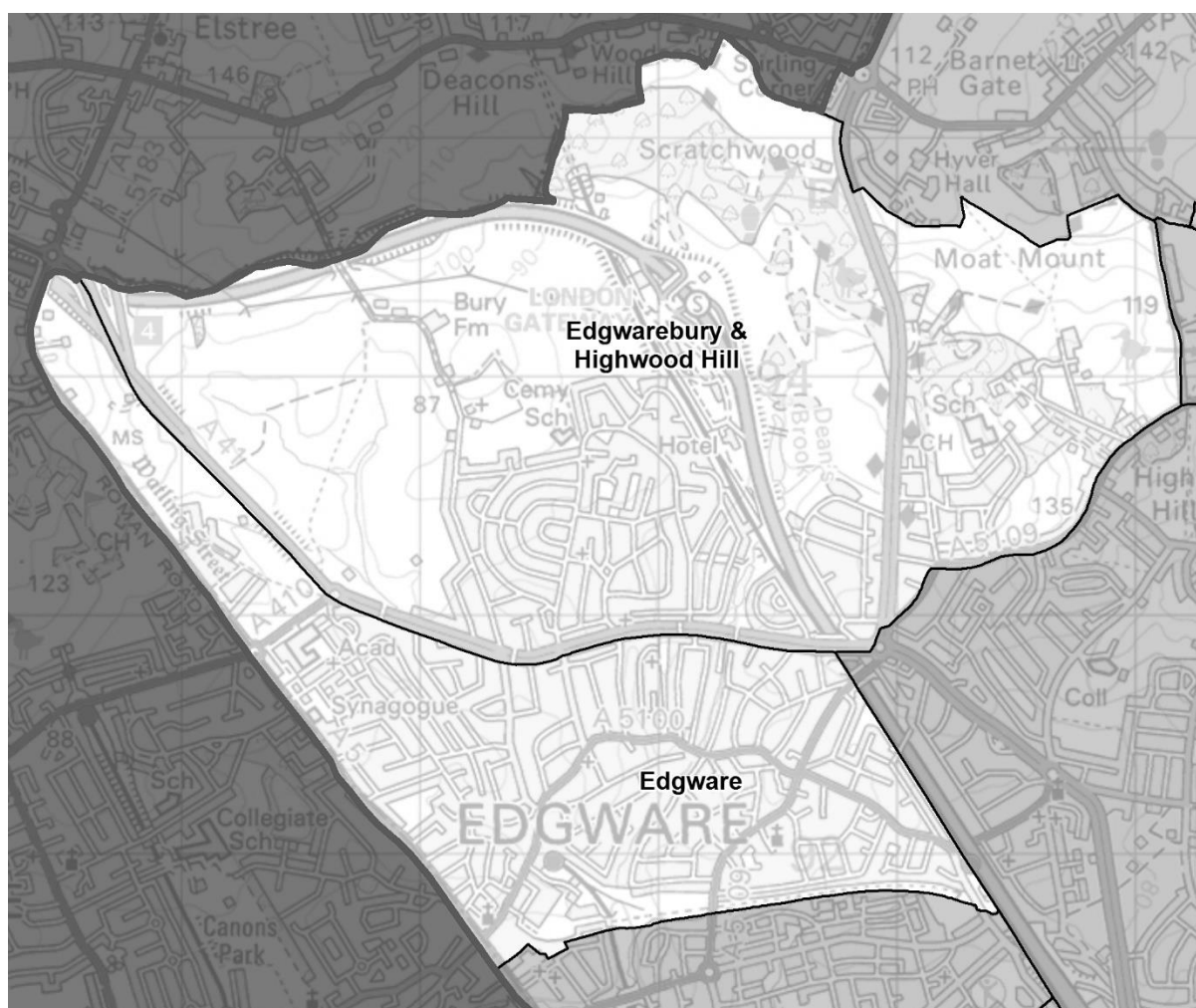
Totteridge & Woodside

81 We are basing our draft recommendations for Totteridge & Woodside ward on the Conservative's proposals. We were not persuaded by the Labour proposals for this area. In particular, we note that Labour proposed including Mill Hill village and the area around Mill Hill Cemetery in their Totteridge ward. Based on the evidence received and our observations when we visited the borough, we have decided to include these areas in Mill Hill ward. The remainder of Labour's proposed Totteridge ward will not contain sufficient electors to secure good electoral equality.

82 While we have based our draft recommendations for Totteridge & Woodside ward of the Conservative proposals, they differ in a number of respects. Firstly, as outlined above, we have decided to include the Millbrook Park development in Totteridge & Woodside ward which will ensure good electoral equality across this area. Our visit to the area also confirmed that Millbrook Park has reasonable access into Woodside Park. Secondly, we have decided to retain the whole of Buttonhole Farm in Mill Hill ward as this reflects its primary access route.

83 Additionally, we agree that it is necessary to include some of the Woodside Park area in Totteridge & Woodside ward to secure good electoral equality. However, we have concerns about the proposal to include the west side of the A1000 High Road in Totteridge & Woodside ward. In particular, we note that this area contains a large number of cul-de-sacs that only access onto the A1000 and not directly into Totteridge & Woodside ward. We consider this area would be better placed in Woodhouse ward along with those areas to the east of the A1000. Since it is necessary to transfer some electors to Totteridge & Woodhouse ward to secure good electoral equality, we have decided to include Westbury Road and Courthouse Road in Totteridge & Woodhouse ward. While we acknowledge that these roads have links into West Finchley ward, we also note that they have good access into Woodhouse via Argyle Road.

Edgware



Ward name	Number of councillors	Variance 2024
Edgware	3	6%
Edgwarebury & Highwood Hill	2	1%

Edgware and Edgwarebury & Highwood Hill

84 We have based our draft recommendations for these wards on the Conservative proposals subject to some minor amendments. As discussed earlier in this report, we are not adopting the Labour proposals for Mill Hill or Burnt Oak ward. This has a consequential effect to our ability to consider their proposals for Edgware ward.

85 We consider that the Conservatives' proposed Edgware ward uses strong boundaries. We are adopting this, subject to the amendment discussed in the Mill Hill section. While we note that the area immediately to the west of the M1 motorway and railway line has links into Mill Hill Broadway, we consider the motorway and railway to provide a stronger ward boundary.

86 To the north, we note that the Conservatives' proposed Edgwarebury & Highwood Hill ward is bisected by the M1 motorway and railway line. However, the options for alternative warding patterns that secure good electorate equality are limited in this part of the borough, particularly given its location on the borough boundary. Therefore, while this ward may combine distinct communities, we are satisfied that they share clear transport links via the Apex Corner roundabout. Additionally, as noted by the Conservatives, they share some concerns, including proximity to greenbelt, suburban character and concerns over the major thoroughfares. We are therefore adopting their Edgwarebury & Highwood Hill ward, subject to a small amendment to include the caravan park to the north in High Barnet ward.

Conclusions

87 The table below provides a summary as to the impact of our draft recommendations on electoral equality in Barnet, referencing the 2018 and 2024 electorate figures. A full list of wards, names and their corresponding electoral variances can be found at Appendix A to the back of this report. An outline map of the wards is provided at Appendix B.

Summary of electoral arrangements

	Draft recommendations	
	2018	2024
Number of councillors	63	63
Number of electoral wards	25	25
Average number of electors per councillor	3,973	4,336
Number of wards with a variance more than 10% from the average	8	0
Number of wards with a variance more than 20% from the average	2	0

Draft recommendations

Barnet Council should be made up of 63 councillors serving 25 wards representing one single-councillor ward, 10 two-councillor wards and 14 three-councillor wards. The details and names are shown in Appendix A and illustrated on the large map accompanying this report.

Mapping

Sheet 1, Map 1 shows the proposed wards for Barnet. You can also view our draft recommendations for Barnet Council on our interactive maps at www.consultation.lgbce.org.uk

Have your say

88 The Commission has an open mind about its draft recommendations. Every representation we receive will be considered, regardless of who it is from or whether it relates to the whole borough or just a part of it.

89 If you agree with our recommendations, please let us know. If you don't think our recommendations are right for Barnet, we want to hear alternative proposals for a different pattern of wards.

90 Our website has a special consultation area where you can explore the maps and draw your own proposed boundaries. You can find it at www.consultation.lgbce.org.uk

91 Submissions can also be made by emailing reviews@lgbce.org.uk or by writing to:

Review Officer (Barnet)
The Local Government Boundary Commission for England
1st Floor, Windsor House
50 Victoria Street
London SW1H 0TL

92 The Commission aims to propose a pattern of wards for Barnet Council which delivers:

- Electoral equality: each local councillor represents a similar number of voters.
- Community identity: reflects the identity and interests of local communities.
- Effective and convenient local government: helping your council discharge its responsibilities effectively.

93 A good pattern of wards should:

- Provide good electoral equality, with each councillor representing, as closely as possible, the same number of voters.
- Reflect community interests and identities and include evidence of community links.
- Be based on strong, easily identifiable boundaries.
- Help the council deliver effective and convenient local government.

94 Electoral equality:

- Does your proposal mean that councillors would represent roughly the same number of voters as elsewhere in the Barnet?

95 Community identity:

- Community groups: is there a parish council, residents' association or other group that represents the area?
- Interests: what issues bind the community together or separate it from other parts of your area?
- Identifiable boundaries: are there natural or constructed features which make strong boundaries for your proposals?

96 Effective local government:

- Are any of the proposed wards too large or small to be represented effectively?
- Are the proposed names of the wards appropriate?
- Are there good links across your proposed wards? Is there any form of public transport?

97 Please note that the consultation stages of an electoral review are public consultations. In the interests of openness and transparency, we make available for public inspection full copies of all representations the Commission takes into account as part of a review. Accordingly, copies of all representations will be placed on deposit at our offices and on our website at www.lgbce.org.uk. A list of respondents will be available from us on request after the end of the consultation period.

98 If you are a member of the public and not writing on behalf of a council or organisation we will remove any personal identifiers. This includes your name, postal or email addresses, signatures or phone numbers from your submission before it is made public. We will remove signatures from all letters, no matter who they are from.

99 In the light of representations received, we will review our draft recommendations and consider whether they should be altered. As indicated earlier, it is therefore important that all interested parties let us have their views and evidence, **whether or not** they agree with the draft recommendations. We will then publish our final recommendations.

100 After the publication of our final recommendations, the changes we have proposed must be approved by Parliament. An Order – the legal document which brings into force our recommendations – will be laid in draft in Parliament. The draft

Order will provide for new electoral arrangements to be implemented at the all-out elections for Barnet Council in 2024.

Equalities

101 The Commission has looked at how it carries out reviews under the guidelines set out in Section 149 of the Equality Act 2010. It has made best endeavours to ensure that people with protected characteristics can participate in the review process and is sufficiently satisfied that no adverse equality impacts will arise as a result of the outcome of the review.

Appendices

Appendix A

Draft recommendations for Barnet Council

	Ward name	Number of councillors	Electorate (2018)	Number of electors per councillor	Variance from average %	Electorate (2024)	Number of electors per councillor	Variance from average %
1	Barnet Vale	3	12,103	4,034	2%	12,365	4,122	-5%
2	Brunswick Park	3	11,623	3,874	-2%	13,096	4,365	1%
3	Burnt Oak	3	12,925	4,308	8%	13,447	4,482	3%
4	Colindale North	2	6,576	3,288	-17%	9,055	4,528	4%
5	Colindale South	3	9,209	3,070	-23%	13,360	4,453	3%
6	Coppetts	2	8,716	4,358	10%	8,720	4,360	1%
7	Cricklewood	2	5,671	2,836	-29%	8,069	4,034	-7%
8	East Barnet	3	12,242	4,081	3%	13,007	4,336	0%
9	East Finchley	3	12,584	4,195	6%	12,771	4,257	-2%
10	Edgware	3	13,082	4,361	10%	13,743	4,581	6%
11	Edgwarebury & Highwood Hill	2	8,188	4,094	3%	8,769	4,385	1%

	Ward name	Number of councillors	Electorate (2018)	Number of electors per councillor	Variance from average %	Electorate (2019)	Number of electors per councillor	Variance from average %
12	Finchley Church End	3	12,818	4,273	8%	13,523	4,508	4%
13	Garden Suburb	2	9,042	4,521	14%	9,231	4,615	6%
14	Golders Green North	2	8,546	4,273	8%	8,396	4,198	-3%
15	Golders Green South	3	12,021	4,007	1%	12,415	4,138	-5%
16	Hendon	3	13,279	4,426	11%	13,576	4,525	4%
17	High Barnet	2	8,460	4,230	6%	9,233	4,617	6%
18	Mill Hill	3	12,377	4,126	4%	13,018	4,339	0%
19	Muswell Hill	1	4,231	4,231	6%	4,271	4,271	-2%
20	Totteridge & Woodside	3	9,635	3,212	-19%	12,191	4,064	-6%
21	Underhill	2	8,808	4,404	11%	9,075	4,538	5%
22	West Finchley	3	12,248	4,083	3%	12,520	4,173	-4%
23	West Hendon	3	10,510	3,503	-12%	12,506	4,169	-4%

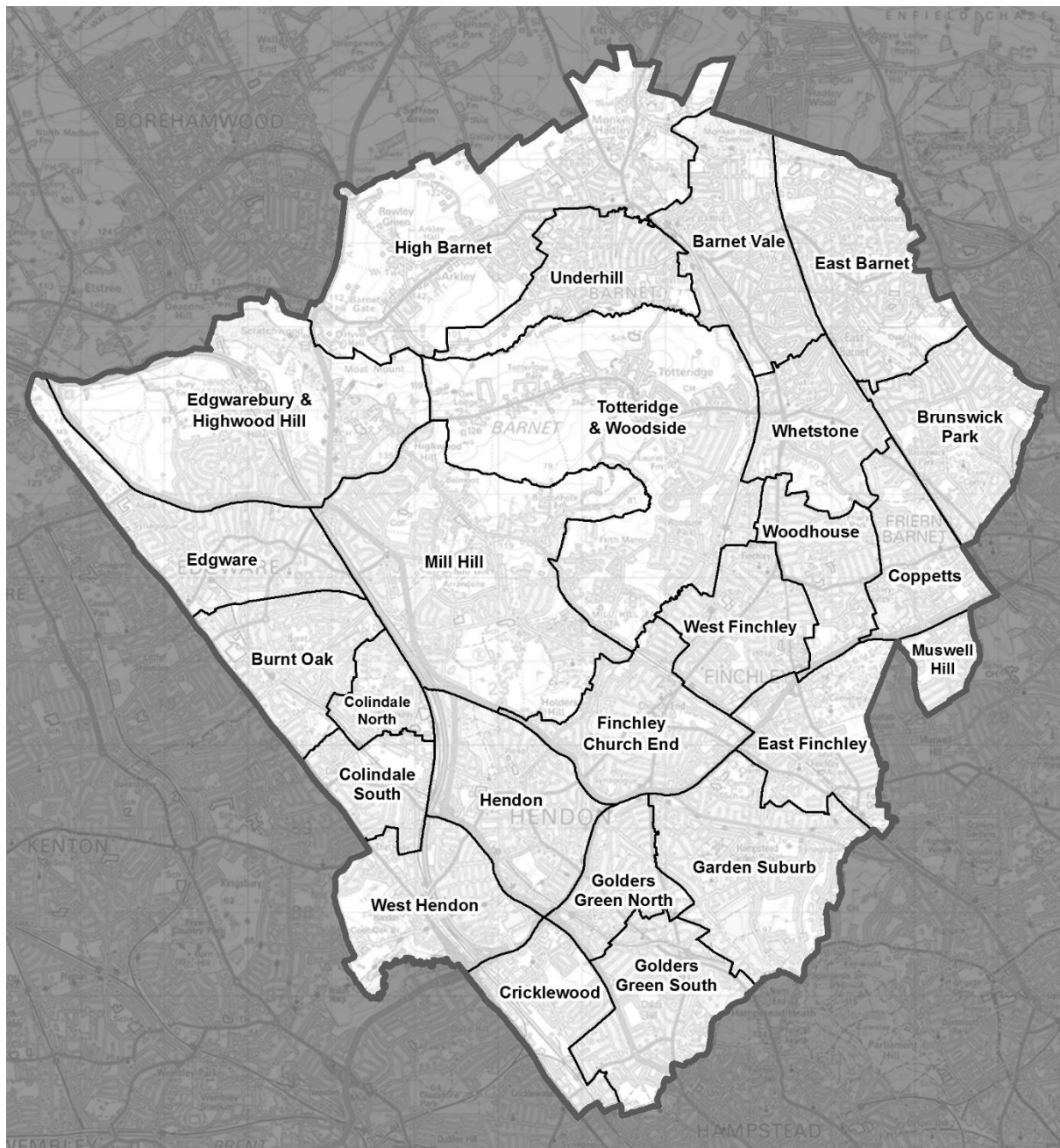
Ward name	Number of councillors	Electorate (2018)	Number of electors per councillor	Variance from average %	Electorate (2019)	Number of electors per councillor	Variance from average %
24 Whetstone	2	7,137	3,569	-10%	8,347	4,173	-4%
25 Woodhouse	2	8,263	4,132	4%	8,470	4,235	-2%
Totals	63	250,294	–	–	273,174	–	–
Averages	–	–	3,973	–	–	4,336	–

Source: Electorate figures are based on information provided by Barnet Council.

Note: The 'variance from average' column shows by how far, in percentage terms, the number of electors per councillor in each electoral ward varies from the average for the borough. The minus symbol (-) denotes a lower than average number of electors. Figures have been rounded to the nearest whole number.

Appendix B

Outline map



A more detailed version of this map can be seen on the large map accompanying this report, or on our website: <https://www.lgbce.org.uk/all-reviews/greater-london/greater-london/barnet>

Appendix C

Submissions received

All submissions received can also be viewed on our website at:

<https://www.lgbce.org.uk/all-reviews/greater-london/greater-london/barnet>

Political Groups

- Barnet Conservatives
- Labour Group on Barnet Council and Barnet Labour Party

Local Organisations

- Mill Hill Neighbourhood Forum

Local Residents

- 28 local residents

Appendix D

Glossary and abbreviations

Council size	The number of councillors elected to serve on a council
Electoral Change Order (or Order)	A legal document which implements changes to the electoral arrangements of a local authority
Division	A specific area of a county, defined for electoral, administrative and representational purposes. Eligible electors can vote in whichever division they are registered for the candidate or candidates they wish to represent them on the county council
Electoral fairness	When one elector's vote is worth the same as another's
Electoral inequality	Where there is a difference between the number of electors represented by a councillor and the average for the local authority
Electorate	People in the authority who are registered to vote in elections. For the purposes of this report, we refer specifically to the electorate for local government elections
Number of electors per councillor	The total number of electors in a local authority divided by the number of councillors
Over-represented	Where there are fewer electors per councillor in a ward or division than the average
Parish	A specific and defined area of land within a single local authority enclosed within a parish boundary. There are over 10,000 parishes in England, which provide the first tier of representation to their local residents

Parish council	A body elected by electors in the parish which serves and represents the area defined by the parish boundaries. See also 'Town council'
Parish (or town) council electoral arrangements	The total number of councillors on any one parish or town council; the number, names and boundaries of parish wards; and the number of councillors for each ward
Parish ward	A particular area of a parish, defined for electoral, administrative and representational purposes. Eligible electors vote in whichever parish ward they live for candidate or candidates they wish to represent them on the parish council
Town council	A parish council which has been given ceremonial 'town' status. More information on achieving such status can be found at www.nalc.gov.uk
Under-represented	Where there are more electors per councillor in a ward or division than the average
Variance (or electoral variance)	How far the number of electors per councillor in a ward or division varies in percentage terms from the average
Ward	A specific area of a district or borough, defined for electoral, administrative and representational purposes. Eligible electors can vote in whichever ward they are registered for the candidate or candidates they wish to represent them on the district or borough council

The
Local Government
Boundary Commission
for England

The Local Government Boundary Commission for England (LGBCE) was set up by Parliament, independent of Government and political parties. It is directly accountable to Parliament through a committee chaired by the Speaker of the House of Commons. It is responsible for conducting boundary, electoral and structural reviews of local government.

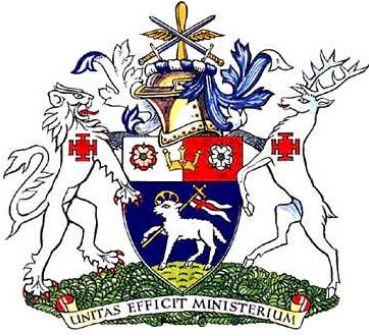
Local Government Boundary Commission for
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www.consultation.lgbce.org.uk
Twitter: @LGBCE

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Constitution and General Purposes Committee

9 April 2019



Title	Local Government & Social Care Ombudsman (LGSCO) and Housing Ombudsman Summary of Upheld Complaints report - 2018/2019
Report of	David Tatlow - Monitoring Officer & Chief Legal Advisor
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Summary of upheld LGSCO complaints received April 2018-March 2019 Appendix B – LGSCO Report - Case ID 17000409 Appendix C – Overview of LGSCO recommendations for Case ID 17000409 and Barnet Councils response
Officer Contact Details	David Tatlow, Monitoring Officer and Chief Legal Advisor 020 8359 2786 / david.tatlow@Barnet.gov.uk George Tsangari, Corporate Customer Complaints Manager 020 8359 5428 / george.tsangari@barnet.gov.uk

Summary

This report presents a summary of the upheld complaints determined by the LGSCO and Housing Ombudsman during 2018/2019.

The report also includes the full LGSCO decision concerning the upheld complaint (Case ID 17000409) which the law requires that we report to committee as the LGSCO issued a public report.

Officers Recommendations

1. That Committee note the summary of upheld decisions by the LGSCO and Housing Ombudsman during 2018/2019 (Appendix A).
2. That Committee note and consider the LGSCO upheld complaint (Case ID 17000409) – Appendices B and C.

1. WHY THIS REPORT IS NEEDED

- 1.1 Complaints can be a valuable source of information and insight to enable the Council to focus on improvements to our processes and service delivery. The Council operates a two-stage Corporate Complaints Procedure. At Stage 1, the manager of the service area deals with the complaint, with the aim of resolving the complaint as quickly as possible. At Stage 2, complaints which are not resolved at Stage 1 are reviewed by the relevant Head of Service.
- 1.2 If the complainant remains dissatisfied after going through the Council's complaints procedure, they may escalate the matter to the Ombudsman.
- 1.3 There are separate statutory processes in relation to social care complaints for Adults and children's services. This is referred to as the statutory social care complaints Procedure. Once the statutory procedure is exhausted the complainant has the right of recourse to the LGSCO.
- 1.4 The LGSCO reserves the right to accept and investigate a complaint even if this has not been through either our corporate or the statutory complaints procedures. This can occur when there are urgent issues (such as imminent homelessness), vulnerability, or if the complainant shows that they have complained to the Council but have not received a response.
- 1.5 In July, the Local Government and Social Care Ombudsman (LGSCO) provides an annual review letter, outlining the complaints and enquiries they have dealt with during the year in relation to the London Borough of Barnet. In future, we will share this letter with Committee once we have received it.
- 1.6 The council have received 131 complaints from 1st April 2018 through to 31st March 2019. Of the 131 complaints received from the LGSCO 20 were upheld at the time of writing.
- 1.7 Table 1 shows the full breakdown of the LGCSO complaints received and a comparison to those received in 2017-2018.

LGSCO / H.O. Decision	Number of Complaints (%of total)			
	2017-2018		2018-2019	
Investigated – Upheld	29	22%	20	15%
Investigated – Not Upheld	7	5%	14	11%
No Further Action	97	73%	83	63%
Still Under Investigation	0	0%	14	11%
Total number of LGSCO complaints received	133	100%	131	100%

1.8 Table 2 shows the breakdown of LGSCO complaints by Service Area.

Service Area	Number of LGSCO/H.O. complaints received			
	2017-2018		2018-2019	
	Total	Number upheld	Total	Number upheld
Adults and Communities	13	2	11	5
Assurance Group	0	0	2	0
Assisted Travel (CSG)	2	0	4	0
Barnet Homes	24	4	26	6
Building Control (RE)	1	1	0	0
Commissioning Group	3	0	2	0
Council Tax (CSG)	10	5	11	2
Cambridge Education (E&S)	5	0	2	1
Customer Service (CSG)	0	0	2	0
Environmental Health (RE)	7	0	5	1
Family Services	8	3	11	3
Highways (RE)	7	4	3	0
Housing Benefit (CSG)	8	0	3	2
Parking Service (Environment)	23	7	30	3
Planning (RE)	14	2	14	1
Property Services (CSG)	2	0	1	1
Street Scene	6	1	4	1
TOTAL	133	29	131	26*

**Where a LGSCO complaint is across two services, it has been recorded in both service areas hence a higher figure.*

1.9 Appendix A give a summary of all the upheld complaints received from the LGSCO from 1 April 2018 to March 2019.

2. REASONS FOR RECOMMENDATIONS

2.1 During the reporting period, the LGSCO has determined one publicly reported case of maladministration with injustice (Case ID 17000409) which was regarding noise nuisance and is attached at Appendix B (November 2018).

2.2 It is alleged that the Council failed to take sufficient action to abate a claimed noise nuisance caused by events at Watling Community Centre next to the home of the complainant; and further complaint that the Council had not taken the actions recommended by the Ombudsman in their decision to uphold the original complaint from 2016.

2.3 The Ombudsman's recommended actions with the Council's response are summarised in Appendix C.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Officers have considered not to accept the decision of the LGSCO Case ID 17000409, but on this occasion that option is not recommended.
- 3.2 The Monitoring Officer visited the premises in order to establish how the proximity of the centre may or may not have an effect on the nearby resident and as a consequence of this visit the council is now in a better position to handle more appropriately any further complaints that may be received.

4. POST DECISION IMPLEMENTATION

- 4.1 The LGSCO will publish their Annual Review letter 2019 which includes the annual summary of statistics on the complaints made to the LGSCO about Barnet Council for the year ended 31 March 2019. We expect to receive this annual report in July 2019.
- 4.2 Following the committee meeting, officers will report back to the LGSCO regarding Case ID 17000409.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Corporate Plan - Barnet 2024 has three outcomes for the borough focus on place, people and communities:
- a pleasant, well maintained borough that we protect and invest in
 - our residents live happy, healthy, independent lives with the most vulnerable protected
 - safe and strong communities where people get along well.
- 5.1.2 As outlined in the council's approach to this vision, delivering a fair and open complaints process helps to ensure we deliver a 'efficient and effective council'.

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

- 5.2.1 Payment of compensation is made on individual cases as directed by the Ombudsman.

5.3 Social Value

- 5.3.1 As contained in this report.

5.4 Legal and Constitutional References

- 5.4.1 Local Government Act 1974, Section 3.
- 5.4.2 Under article 7 of the Constitution, the Constitution and General Purposes Committee's terms of reference include:
"To consider and make recommendations to the Council on:
(iii) ethical standards in general across the authority.

To have responsibility for overseeing the Council's governance arrangements.”

5.5 Risk Management

5.5.1 Complaints can be an essential means by which the Council assures the quality of council service. By listening to complaints and taking improvement action where necessary, the Council minimises the risk of non-compliance and ensures improved customer satisfaction.

5.6 Equalities and Diversity

5.6.1 Learning from complaints also assists the Council in fulfilling its statutory duty under s149 of the Equality Act.

5.6.2 Section 149 of the Equality Act 2010 sets out the Public-Sector Equality Duty which requires a public authority (or those exercising public functions) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not.

5.6.3 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil Partnership

5.6.4 Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible, through an equalities impact assessment, before final decisions are made. Consideration will also be made to the equalities and data cohesion summary.

5.7 Corporate Parenting

5.7.1 This is reviewed case by case and referred to Family Services where appropriate.

5.8 Consultation and Engagement

5.8.1 Engaging with customers through the complaints process is an important and valuable source of information and insight to enable the Council to focus on improvements to our processes and service delivery.

5.9 Insight

5.9.1 Learning from complaints provides insight into service improvement opportunities, complementing quantitative and statistical data on service performance.

6. BACKGROUND PAPERS

6.1. [The Local Government and Social Care Ombudsman website](#)

Appendix A – Summary of upheld decisions by the Local Government and Social Care Ombudsman and Housing Ombudsman during 2018-19.¹

LGSCO upheld complaint Decisions

Reference	Service	Complaint Description	Response and Remedy	Compensation
18 000 435	Adults & Communities & CSG (Council Tax)	The council failed to respond to queries relating to Council Tax and service charge exemption.	The council agreed to pay complainant and his son £250 each.	£500
18 000 341	Family Service	The council failed to carry out appropriate assessments of her son’s needs.	The council agreed there was a delay and an error in sending adult services to carry out the carers assessment.	£200
201606909 - Housing Ombudsman	Barnet Homes	Inadequate Barnet Homes’ handling of reports of alleged Anti-Social Behaviour (ASB).	Written apology for failure to maintain adequate records regarding investigation of ASB allegations and failure in complaints handling. Barnet Homes to keep full, clear and detailed records of investigations into ASB.	£200
17 007 740	RE (Planning)	Length of time to deal with breaches of planning control at neighbour’s property. There were delays in the council taking neighbour to court and this caused distress and time and trouble pursuing complaint.	The council agreed to apologise and pay compensation.	£650

¹ LGO Upheld Decisions received to date of report being published

Reference	Service	Complaint Description	Response and Remedy	Compensation
17 018 080	Cambridge Education (Education & Skills)	Failings in relation to SEN provision for complainants' nephew.	The council agreed to apologise, and pay compensation.	Pay costs of 5 Occupational Therapy sessions and £750
18 002 431	Environment (Parking Service)	The council's enforcement agent should not have removed the complainants' car as the PCN was being disputed. The enforcement agents refused to let complainant remove pram from their car when it was towed away.	The council has agreed to withdraw the remaining charges.	£110
18 003 074	Adults & Communities & Family Services	Delay in completing needs assessment and support plan for adult daughter and delay in completing carer's assessment.	The council failed to have transitional arrangements in place for transition to adulthood. Failure to respond properly and took too long to assess needs. Delayed in starting carer's assessment.	£1,000
18 004 218	NSL & Environment (Parking Service)	The council failed to reach an agreement with the company which manages the car park as to whether the company or the council is responsible for resolving the claim for compensation.	The council has agreed to make a payment to resolve claim.	£200 plus £1,350 damage for car.
17 017 895	Barnet Homes	Extended wait for permanent housing and being placed in a lower band. The council did not consider medical needs for a one bedroom flat.	The council will reconsider its banding in light of the policy and see whether there are grounds to exercise discretion on awarding a community contribution.	N/A

Reference	Service	Complaint Description	Response and Remedy	Compensation
18 007 039	Street Scene	Complaint the council failed to clean and maintain the area around complainants' street for several years and did not follow through.	Fault by the council by not keeping promises to complainant that it was unable to keep to cleaning schedules. The council agreed to act including paying compensation.	£100
17 014 806 / 17 016 325 / 17 016 250	Adults & Communities & Barnet Homes	Failed to make reasonable adjustments to support complainant to complete a housing transfer application.	Complainant offered suitable flat and apology offered.	£200
17 016 288	Environment (Parking Service)	Complaint of vehicles parking across residents dropped kerb. Evidence of fault in the content of council's Parking Policy.	The council agreed to reconsider parking policy to ensure it is up to date.	N/A (no injustice)
16 006 270	CSG (Housing Benefits) & Barnet Homes	Delay in referring housing benefit appeal to the Tribunal Service.	Delay and faults in way council handled Council Tax account.	£1,000
17 007 312	Adults & Communities & CSG (Housing Benefit)	Fault in the way council handled complainant's finances.	Council offered a remedy for distress.	£10,000
17 013 342 / 17 018 654	Adults & Communities	Standard of care received by complainant's late husband in Care Home.	Council has agreed to apologise and make payments to remedy injustice.	£600 (inc payment by care provider)
17 014 878	Barnet Homes	Placed complainant in unsuitable interim accommodation.	Council has agreed to provide compensation.	£380
17 018 939	Family Service	Council's failure to treat complainant as a Looked After Child.	Actions council has already taken to remedy situation is satisfactory remedy	N/A
17 000 409	CSG (Property Services) & RE (Environmental Health)	Failure to take action of alleged noise nuisance	Council agreed to review and pay compensation.	£600
18 008 452	Barnet Homes	Barnet Homes has not adequately considered circumstances relating to housing application.	Council has agreed to review housing application to determine being placed in higher banding.	N/A

Reference	Service	Complaint Description	Response and Remedy	Compensation
17 007 185	CSG (Council Tax)	Fault with handling of Council Tax account.	The council agreed to pay compensation.	£200

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
London Borough of Barnet
(reference number: 17 000 409)**

14 November 2018

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr C	The complainant
Officer J	A Council officer from Barnet Estates
Officer R	A Council officer from the Community Protection department
Officer T	A Council officer from the Strategy Unit

Report summary

Noise nuisance

Mr C complains about the Council's failure to take action about noise nuisance from events at a community centre next to his home. Mr C says the noise is both a statutory noise nuisance and a breach of the lease agreement with the Council. Mr C also says the Council has not complied with the recommendations made by the Ombudsman in response to his previous complaint about the same issues.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To remedy the injustice caused we recommend that within six months of the date of this report, the Council:

- again seeks legal advice on the procedure to follow to monitor any breaches of the lease at the site, and the standard of evidence required to be satisfied if conditions have been breached and formal action under the lease is justified;
- undertakes unannounced planned visits to the community centre on five dates when scheduled events are taking place to assess whether any noise is in breach of the lease or is a statutory noise nuisance (if the Council is unable to identify five events during the next six months, it will ask us for a time extension);
- writes to Mr C after each visit to tell him the details of the visit and the result of the assessment; and
- writes to Mr C and us, after all five visits have taken place, a decision on whether there is evidence of a breach of the lease or a statutory noise nuisance, and any further action the Council intends to take.

We also recommend that within two months of the date of this report, the Council:

- pays Mr C a financial remedy of £500 in recognition of his distress and uncertainty as a result of the Council's failure to comply with our previous recommendation and carry out the actions it had agreed; and
- pays Mr C an additional financial remedy of £100 in recognition of his time and trouble complaining to the Council and us about the same issues as his previous complaint.

The complaint

1. Mr C complains that the Council has failed to properly investigate and take action about noise nuisance from events at a community centre next to his property. Mr C says the noise is both a statutory noise nuisance and a breach of the lease agreement with the Council. Mr C also says the Council has not complied with the recommendations we made in response to his previous complaint about the same issues.

Legal and administrative background

The Ombudsman's role

2. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

Statutory noise nuisance

3. The Environmental Protection Act 1990 gives local authorities the power to take action about 'statutory nuisances' in their area. The Act includes noise as a statutory nuisance.
4. Local authorities must investigate complaints from members of the public about issues which could be a statutory nuisance. For the issue to be a statutory nuisance it must:
 - unreasonably and substantially interfere with the use or enjoyment of a home or other premises; or
 - injure health or be likely to injure health.
5. Where a local authority is satisfied a statutory nuisance exists in their area, it must serve an abatement notice requiring the nuisance to stop or be limited to certain times. If a person does not comply with an abatement notice they can be prosecuted and fined.

How we considered this complaint

6. We produced this report after making enquiries of the Council, examining relevant documents and discussing the complaint with Mr C. We gave Mr C and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Background to Mr C's complaint

7. Mr C lives in a flat next to a community centre. Mr C is a Council tenant. The centre is owned by the Council, but leased to a community association.
8. The lease for the centre contains the following clauses:
 - The user should not do or allow anything which may be or become a nuisance or annoyance to tenants of any neighbouring property.

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- The hours of use are restricted to no later than 11 pm, with the use till midnight allowed on 12 days a year.
 - No music or announcements from the centre should be audible outside the centre.
9. Mr C says he has been complaining about noise from events at the community centre since 2009. In 2014 the Council issued an abatement notice due to unacceptable noise from the community centre.
 10. In August 2015 Mr C complained to us about the Council's handling of his reports of noise nuisance from the community centre. Mr C complained about the lack of enforcement action by the Council both under the terms of the lease and under statutory noise nuisance powers.
 11. We investigated the complaint. In its response to our enquiries the Council said it was clear the reactive approach was not resolving the matter, as the nuisance was finishing before an officer could attend the site. The Council said it would now consider planned proactive visits to Mr C's property on days when the noise was likely to occur and also prioritise Mr C's calls to the noise monitoring service.
 12. In [our decision](#) we found the Council was not at fault for the way its Environmental Health department responded to Mr C's reports of noise nuisance from the community centre. But, we found the Council was at fault for the way it responded to potential breaches of the lease agreement. Specifically, we said:

The community centre lease contains straightforward clauses, which do seem to have been breached by the leaseholders and would be much easier to monitor. i.e. officers visiting at 11 pm could check the hall was not in use and listen at the boundary to see if noise from the centre is audible.

From the evidence we have seen, it does seem the Council has not done enough to consider whether action should be taken over breaches of the lease conditions.

So, we recommend the Council monitors the site for breaches of the lease conditions and/or collates the evidence it already has to enable it to take a decision on whether to take action over breaches of the lease. This may involve the Council getting legal advice and considering whether the building is suitable for the use it is being used for. It seems to us that late night functions with loud music are problematic in a building with no air conditioning so the doors and windows are always likely to be opened.
 13. The Council agreed to this recommendation and in early 2016 we made our final decision on the complaint.
 14. In early 2017 Mr C contacted us again because he did not consider the Council was properly investigating noise nuisance he reported or that our recommendations had been followed.
 15. This report deals with our investigation of events since we decided Mr C's previous complaint in early 2016. We have not re-visited the matters which we previously investigated.
- What happened after our decision on Mr C's previous complaint**
16. After reporting four incidents of noise nuisance in early 2016, Mr C told the Council the noise was now louder. He said he had reported noise nuisance to the noise team, which took too long to attend.

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17. The Council responded to Mr C in early April saying it had asked for legal advice from its legal team and was waiting for this.
 18. The Council said it would ensure its Property Services team told Mr C of its intentions once instructions had been received from the Legal Team. The Council also said it would be visiting the centre in the next week or so to:
 - check the status of the noise limiter (which turns the power off once music exceeds a set volume);
 - re-iterate the importance of keeping the windows closed; and,
 - encourage the centre to install air conditioning (to prevent the opening of doors and windows during events).
 19. A few days later an officer from Barnet Estates, Officer J, sent an email to the community centre. Officer J sent the centre a copy of our decision and said it was necessary to increase the monitoring and recording of events, and suggested an informal meeting. Officer J added that the Council was seeking legal comment on the introduction of procedures to monitor breaches, including noise, to comply with our recommendations. In an internal email sent before the meeting took place, Officer J said the meeting would also involve the preparation of an agenda for a formal meeting with the directors of the community centre, Environmental Health, Property Services and possibly Legal Services.
 20. The informal meeting went ahead as scheduled in mid April. After the meeting the Service Director for Regulatory Services sent an email to an officer, Officer R, in the Community Protection department. The Service Director asked Officer R to:
 - write to Mr C to again outline the details of the noise service;
 - find out what bookings the community centre has over the coming weeks and arrange for the out of hours service to make a number of proactive visits when there are bookings to see if there is any noise to witness or any potential nuisance; and
 - ensure that Mr C is told by email the dates and times of any visits where no nuisance is witnessed, so Mr C knows the Council has made proactive visits.
 21. Later that month Officer J prepared a schedule of lettings to help monitor noise complaints and shared this with the Service Director for Regulatory Services. Officer R asked Officer J for bookings for May so they could arrange a proactive visit. Officer J sent this information in mid May. A few days later Officer J sent another email to Officer R with further information about the latest noise complaint made by Mr C and included the community centre's comments in response.
 22. The Council says during this period it received legal advice which Officer J had asked for in early April. The Council cannot now find a copy of this advice and says Officer J left the Council's employment shortly after making this request. But, the Council says the advice said for there to be a breach of the lease, it would need to be demonstrated that noise exceeded statutory levels on a regular basis.
 23. Mr C says he did not hear from the Council for a while, so he assumed they were investigating the noise. Mr C also says because of a family bereavement he did not contact the Council for a while and there were a couple of noise incidents in 2016 which he did not report. The Council says it offered Mr C proactive visits in early autumn 2016, but for personal reasons Mr C refused these.
 24. Mr C says at the start of 2017 the noise nuisance started again. Mr C reported noise nuisance to the Council on two occasions in March.

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25. On the first occasion the Environmental Health Officer told Mr C he would not be able to visit because Mr C would not allow access to his property.
 26. On the second occasion the Environmental Health Officer witnessed the noise from inside Mr C's property.
 27. The Council's notes say the noise was not a nuisance but was audible, so the Officer spoke to the community centre's caretaker to reduce the noise.
 28. In early April the Council sent an email to Mr C with an update. The Council said it had been monitoring the noise levels at the community centre and would issue a written warning to the tenant of the community centre to comply with the terms of the lease. The Council also said it would endeavour to implement 'no noise and nuisance' signs at the premises as soon as possible.
 29. Three days later Mr C again reported noise nuisance. An Environmental Health Officer visited the community centre but did not witness a nuisance.
 30. The next day Mr C made a complaint to the Council about its management of the lease for the community centre. Part of Mr C's complaint was that he did not consider the Council had followed our recommendation in response to his previous complaint.
 31. On the same day an officer from the Council's Strategy Unit, Officer T, sent an email to officers involved with responding to Mr C's complaint. In the email Officer T said there was no evidence that the Council had consistently done what it agreed with us it would do to enforce the lease and reduce noise nuisance. Officer T said they had not seen any evidence that Environmental Health had done what they agreed to do, and the evidence from Property Services did not extend beyond April 2016. Officer T identified the need for a lead officer to work with Mr C to prioritise his calls, anticipate when noise may occur, and visit the community centre at these times.
 32. The next day the Council sent an email to the community centre about three noise complaints (made by Mr C) in late March and early April. The Council told the community centre it found the noise and nuisance at the premises unacceptable and not in compliance with the terms of the lease. The Council told the community centre to accept the email as a written warning to comply with the lease and stop nuisance behaviours at the premises.
 33. A few days later Mr C phoned the Council with a person from the community centre present. The Council says the officer he spoke to gave advice on how to ensure a nuisance was not being caused.
 34. In early May the Council provided its stage one response to Mr C's complaint about the Council's handling of the management of the lease for the community centre. The Council did not uphold the complaint. The Council said:
 - Since our decision, officers had visited the vicinity of the community centre on many occasions to assess noise levels in response to Mr C's complaints and several proactive visits had been undertaken.
 - Officers decided that the level of noise did not constitute a statutory nuisance, so no further proactive monitoring was scheduled, but Mr C could continue to report noise nuisance.
 - Over the summer period, Property Services would visit the site every two months for a period of six months to ensure compliance with the terms of the lease.

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- If any issues of concern were not addressed by the tenants, the Council would consider increasing the number and/or frequency of visits.
 - Property Services would only consider taking action against the tenant in circumstances involving a statutory nuisance.
 - Property Services considered it would be unreasonable to take action against the tenants in cases where noise was audible outside the premises but not at a level that would unreasonably affect nearby residents.
 - The Council had complied with all the recommendations we had made.
35. The Council says in May it contacted the community centre about Mr C's concerns that the noise limiter was not working.
36. Mr C reported noise nuisance on four occasions during May and June. The Council says on two occasions the noise had stopped before an officer attended the site. On the other occasions the officer did not witness any noise.
37. In mid July Mr C again reported noise nuisance to the Council. The Council says the officer witnessed noise and noticed that the doors and windows at the centre were open. The officer asked for the noise to be turned down and the windows to be closed.
38. In late July Mr C put in a stage two complaint to the Council about the management of the lease.
39. At the start of August Property Services sent an email to the community centre to arrange a visit to the site. On the same day an officer from the Council's complaints department sent an internal email to officers involved with the investigation of the issues Mr C had complained about. In the email the officer said 'it is likely the Ombudsman will again find fault in this case, however we still have the opportunity to turn this around before the stage 2 goes out to him [Mr C]'.
40. In early September the Council provided its stage two response to Mr C's complaint about the management of the lease. The Council summarised the actions it was taking to work with the community centre to monitor its compliance with the lease. The Council did not uphold Mr C's complaint.
41. In early September the community centre replied to the Council's email of 2 August. In a further email sent to the community centre the Council said the three unresolved issues were:
- the noise limiter;
 - signs in the car park and inside the centre advising visitors to leave quietly; and,
 - the caretaker visiting at inappropriate times and making unnecessary noise.
42. The Council said proactive measures were needed to mitigate the disturbance and a meeting was needed.
43. In mid September an Environmental Health officer contacted Property Services saying they had spoken to the community centre and they intend to install a new noise limiter in two to three weeks. They noted the new signs were now on display around the site.
44. In late October Mr C again reported noise nuisance. The Council says an officer made an assessment in Mr C's garden for 10 minutes but did not witness any noise.

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45. Mr C was not satisfied with the Council's response to his complaint, so he complained to us.
46. The Council's responses to our enquiries included the following comments.
- In 2017 officers visited frequently in a reactive capacity and have been able to attend quickly and as a result have witnessed some noise from the premises, however on all occasions this has been assessed as not being at a level to be a statutory nuisance.
 - Further proactive visits are not required as officers have been able to witness examples of the noise Mr C has been complaining about.
 - The signage placed both in and outside the centre – including the car park signage – is deemed adequate.
 - The Council has offered Mr C suitable alternative accommodation, but Mr C has not accepted these offers and chose to stay at his current accommodation.
 - Property Services does not consider the tenant is in breach of the lease.
47. We asked the Council to provide information about the visits it said it would undertake during the summer of 2017. The Council said some visits took place but this was not as often as anticipated. This was because of changes to officers managing the case.
48. We asked the Council why it did not uphold Mr C's complaints in light of the comments of Officer T and the Complaints Officer in the emails mentioned above. The Council said the complaints were not upheld because the Council did not find evidence of a breach.
49. Mr C disputes the Council's claim that it offered him alternative accommodation. Mr C says he did not receive any letters about this and an Environmental Health Officer just mentioned this was a possibility during a visit to his home. We asked the Council to provide information about these offers. The Council replied by saying its Officers must have verbally suggested to Mr C that he consider alternative Council accommodation. The Council said there is no written evidence, which is likely to be because Mr C has always said he did not want to move.

Analysis

50. We are satisfied the Council was taking appropriate steps to investigate the matter between February 2016 and May 2016. During this period Officer J was fully aware of our decision on Mr C's previous complaint and undertook a range of actions including seeking legal advice and meeting the directors of the community centre.
51. Also during the period, the Service Director for Regulatory Services requested the out of hours service to make a number of proactive visits when there were bookings to see if there was any noise to witness or any potential nuisance. The Service Director also asked for Mr C to be notified after planned visits had taken place where no nuisance was witnessed.
52. The Council was not at fault during this period.
53. But, after May 2016 there is no evidence of any further action by the Council until March 2017. The Council did not undertake any planned visits despite clearly intending to do so.

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54. The Council offered Mr C planned visits to his property in early autumn 2016 but this was declined by Mr C due to a family bereavement. However, the Council did not need to enter Mr C's property to assess whether the community centre was breaching the conditions of the lease. Also, the Council's notes for this period say Mr C asked the Council to assess the noise from the side of his house. So, the Council should have undertaken planned visits during this period.
 55. In response to our draft report the Council referred to several site visits it undertook during 2018. But, the Council's records do not suggest these visits were planned visits when the Council knew events were taking place. The failure to undertake any planned visits to the site after our decision on Mr C's previous complaint is evidence of fault.
 56. The Council says the legal advice it received said for there to be a breach of the lease, it would need to be demonstrated that noise exceeded statutory levels on a regular basis. The Council says it would not be reasonable to take action under the lease about noise which is not a statutory noise nuisance.
 57. The lease makes it clear that noise only needs to be audible outside the premises for a breach of the lease to have occurred. So, we can understand why Mr C feels aggrieved that the Council says the noise has to be a statutory noise nuisance under the Environmental Protection Act to justify action under the management of the lease.
 58. The Council should have a record of the legal advice. This would allow us to scrutinise the legal advice in more detail, particularly as the Council's comments suggest the advice it received required a higher standard of evidence (a statutory noise nuisance) than stated in the lease conditions.
 59. We also note that according to an email sent by Officer J, the legal advice request also asked for comment on the introduction of procedures to monitor breaches to comply with our recommendation. Without a record of the legal advice we do not know if the Council received (and followed) advice on how to monitor the alleged breaches. The failure to keep a record of the legal advice is evidence of fault.
 60. Officer T identified several failures, in the detailed email referred to above, about the way the Council responded to our decision on Mr C's previous complaint. But, despite the highly critical views of Officer T, the Council did not accept it was at fault when it responded to Mr C's stage one complaint. In response to our enquiries the Council said this was because there was no evidence of a breach (presumably of the lease). But, this is not a good reason for not accepting fault in the stage one response. The complaint was about the Council's actions since our decision on Mr C's previous complaint and not just whether there had been a breach of the lease or not. In any case, the Council's comments are not supported by the fact it had recently issued a written warning to the community centre which said the centre had not been complying with the lease.
 61. In addition, the response said several proactive visits had been undertaken. This was not correct.
 62. The Council was at fault for the way it responded to Mr C's stage one complaint about the management of the lease. The Council should have accepted its handling of the matter had been affected by fault and that it had not undertaken any planned visits to assess the noise.
 63. As part of the stage one response, the Council said over the summer period Property Services would visit the site every two months for a period of six months to ensure compliance with the terms of the lease.

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64. The Council says some visits took place, but we have not seen records to show this happened. The Council's failure to undertake all the agreed visits, or record those which it says it undertook, is also evidence of fault.
65. The Council's response to Mr C's stage two complaint again did not accept any fault, despite the previously referenced comments of a complaints officer.
66. Again, the Council has not provided good reasons for the apparent change in the Council's position on whether its handling of the matter was affected by fault.
67. The Council's responses to Mr C's complaint did not give fair consideration to the issues Mr C complained about.
68. The evidence shows the Council has been trying to work with the operators of the community centre to:
- improve the signage at the centre;
 - ensure the noise limiters are working;
 - investigate noise being emitted from the gap under the fire exit door; and,
 - encourage the installation of air conditioning.
69. Ultimately it is for the operators of the community centre to comply with the conditions of the lease. For example, the community centre has said it cannot afford to install air conditioning. But, if this results in a breach of the lease (because doors and windows are opened during events) the Council should take action.
70. As was the case when we investigated Mr C's previous complaint, the Council's investigation of potential breaches of the lease agreement has been affected by fault.
71. Environmental Health was not at fault for the way it responded to Mr C's reports of noise nuisance. The Council's records strongly suggest it has responded promptly to incidents of noise nuisance reported by Mr C.
72. The Council has undertaken noise assessments both in Mr C's garden and in the street, as it understands Mr C is not comfortable with assessments taking place in his home. As was the case when we investigated Mr C's previous complaint, there have been occasions when Mr C has reported noise nuisance but the noise has stopped by the time an officer has attended the site. This emphasises why it was so important for the Council to undertake several planned proactive visits at times when it knew events were taking place.
73. The Council's initial claim it offered Mr C alternative accommodation is disputed by Mr C. The information does not suggest this was anything more than a conversation about the possibility of Mr C moving house. But, even if the Council did make such an offer, this does not remove the Council's responsibility to properly investigate the issues Mr C reported. Mr C is entitled to expect a thorough investigation into the noise issues he has reported before deciding whether to move out of his home. Also, the fact the Council issued a written warning to the community centre management shows that Mr C's concerns are well founded.
74. Mr C has suffered a significant injustice as a result of the fault we have identified. It is not possible to say what the outcome would have been if the Council had undertaken the planned visits to assess the noise that it intended to undertake in May 2016 and again during the summer of 2017.

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75. The Council's failure to undertake these noise assessments has caused Mr C some distress and uncertainty, as he continues to be affected by noise from events at the community centre. It is also unlikely Mr C would have been put to the time and trouble of complaining to us again if the Council had accepted fault and taken appropriate action in response to his complaints to it.

Conclusions

76. The Council's handling of the noise nuisance reported by Mr C since February 2016 was affected by fault. The Council:
- did not comply with the recommendation of our previous investigation by undertaking planned visits to the site to monitor compliance with the lease;
 - wrongly told Mr C that several proactive visits to the site had been undertaken;
 - did not keep a record of the legal advice it received;
 - wrongly did not accept any fault when it responded to Mr C's complaints; and,
 - did not undertake visits to the centre every two months during the summer of 2017 despite telling Mr C it would do so.

Recommendations

77. To put right the injustice suffered by Mr C as a result of fault by the Council, we recommend that within six months of the date of this report, the Council:
- again seeks legal advice on the procedure to follow to monitor any breaches of the lease at the site, and the standard of evidence required to be satisfied if conditions have been breached and formal action under the lease is justified;
 - undertakes unannounced planned visits to the community centre on five dates when scheduled events are taking place to assess whether any noise is in breach of the lease or is a statutory noise nuisance (if the Council is unable to identify five events during the next six months, it will ask us for a time extension);
 - writes to Mr C after each visit to tell him the details of the visit and the result of the assessment; and
 - writes to Mr C and us, after all five visits have taken place, a decision on whether there is evidence of a breach of the lease or a statutory noise nuisance, and any further action the Council intends to take.
78. We also recommend that within two months of the date of our final report, the Council:
- pays Mr C a financial remedy of £500 in recognition of his distress and uncertainty as a result of the Council's failure to comply with our previous recommendation and carry out the actions it had agreed; and
 - pays Mr C an additional financial remedy of £100 in recognition of his time and trouble complaining to the Council and us about the same issues as his previous complaint.
79. In addition, the Council must consider the report and confirm within three months the action it has taken or proposes to take.

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80. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Decision

81. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Mr C. The Council should take the action identified in paragraphs 77 and 78 to remedy that injustice.

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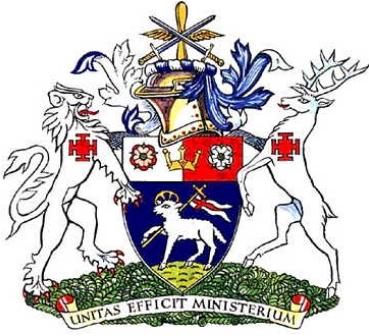
Appendix C – Barnet Council’s response to LGSCO recommendations for Case ID 17000409

LGSCO recommendations for Case ID 17000409	Barnet Council’s Response
<p>1. The Ombudsman asks that Barnet Council seeks legal advice on the procedure to follow to monitor any breaches of the lease at the site, and the standard of evidence required to be satisfied if conditions have been breached and formal action under the lease is justified.</p>	<p>Legal advice has been sought from the Chief Legal Advisor and Monitoring Officer and appropriate actions will be taken.</p> <p>Regular communication has taken place with the Community Centre and this will continue to ensure that the terms of the lease will be complied with in so far as is reasonably practicable.</p>
<p>2. The Ombudsman asks that Barnet Council undertakes unannounced planned visits to the community centre on five dates when scheduled events are taking place to assess whether any noise is in breach of the lease or is a statutory noise nuisance (if the Council is unable to identify five events during the next six months, it will ask us for a time extension)</p>	<p>In compliance with the Ombudsman’s recommendations, the council has undertaken five unannounced, planned visits and outcomes noted as below.</p> <p>Unplanned and unannounced visits were taken in 2018 on:</p> <ul style="list-style-type: none"> • 25/11/2018 (Noise from drums and microphone heard from outside centre noise audible. Unable to access complainant's property so could not assess as a statutory nuisance. Spoke to organisers and advised) - No statutory nuisance witnessed. • 02/12/2018 (Music heard but not audible over traffic noise - No further actions taken) - No statutory nuisance witnessed. • 09/12/2018 (Music only audible from directly outside premises and not audible at boundary fence) - No statutory nuisance witnessed. • 16/12/2018 (premises visited @ 14:20 - audible from o/s premises not barely audible from perimeter fence adjoining property) - No statutory nuisance witnessed. • 23/12/2018 (visit to site @ 13:18pm - no noise audible from o/s premises) - No statutory nuisance witnessed.

LGSCO recommendations for Case ID 17000409	Barnet Council's Response
<p>3. The Ombudsman asks that Barnet Council writes to Mr X after each visit to tell him the details of the visit and the result of the assessment; and</p>	<p>The Group Manager, Community Protection (Regulation) has contacted the complainant on two occasions (14/12/18 and 23/01/19), making him aware of the outcomes of the visits by the service. The officer also confirmed that they have not witnessed a statutory nuisance on any of these occasions.</p>
<p>4. The Ombudsman asks that Barnet Council writes to Mr X and us, after all five visits have taken place, a decision on whether there is evidence of a breach of the lease or a statutory noise nuisance, and any further action the Council intends to take.</p>	<p>The Ombudsman was written to on 21st March 2019.</p>
<p>5. The Ombudsman asks that within two months of the date of this report, the Council pays Mr X a financial remedy of £500 in recognition of his distress and uncertainty as a result of the Council's failure to comply with our previous recommendation and carry out the actions it had agreed.</p>	<p>Barnet Council made this payment to the complainant in December 2018.</p>
<p>6. The Ombudsman asks that Barnet Council pays Mr X an additional financial remedy of £100 in recognition of his time and trouble complaining to the Council and the LGSCO, about the same issues as his previous complaint.</p>	<p>Barnet Council made this payment to the complainant in December 2018.</p>

Constitution and General Purposes Committee

9 April 2019



Title	Campaign for Freedom of Information - Report on FOI good practice in London Boroughs
Report of	Clair Green – Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	Appendix A – Campaign for Freedom of Information report FOI Good Practice: A survey of London local authorities
Officer Contact Details	Jon Hill, Transparency and Open Data Manager 020 8359 7072 / jon.hill@barnet.gov.uk

Summary

This report presents a summary of the findings of the recent Campaign for Freedom of Information report on Freedom of Information (FOI) performance and good practice in London Boroughs. Elements of the report refer to best practice examples with Barnet Council. The report also include update on Barnet's FOI performance in 2018/19.

Officers Recommendations

1. That Committee note the report, and the recognition from CFOI of the positive and effective approach Barnet has taken in order to be an exemplar of FOI good practice.
2. That Committee note the council's commitment to maintaining continuous improvement in this regard, as evidenced by current high levels of performance.

1. WHY THIS REPORT IS NEEDED

- 1.1 In a report published on 6 March, the Campaign for Freedom of Information (CFOI) revealed performance and procedure gaps across the majority of London boroughs (see Appendix A).
- 1.2 Despite the negative findings with regard to most boroughs, Barnet is repeatedly held up in the report as an exemplar of good practice and excellent levels of performance.
- 1.3 The CFOI is the primary advocacy group that promotes and defends freedom of information in the UK. Its central aims are to strengthen the public's rights under the Freedom of Information Act and related laws and oppose attempts to weaken them.
- 1.4 Barnet's response to the Freedom of Information Act is led centrally by the Information Management Team in Assurance, with assistance from Link Officers throughout the council and partner organisations.
- 1.5 The CFOI has been aware of Barnet as a centre of excellence for Freedom of Information for some time, and the organisation has asked the Transparency and Open Data Manager to present at events promoting performance improvement and good practice for both a delegation of the Tunisian government and, most recently, at a seminar for all London boroughs.
- 1.6 The recent report cites Barnet as one of only 9 boroughs that meet the Information Commissioner's requirement that 90% of FOI requests are answered within statutory deadlines, and one of only 3 boroughs that achieve over a 95% response rate.
- 1.7 The council is also praised for its openness and transparency, not just in terms of publishing a disclosure log and FOI performance data, but also in reducing of the Act by publishing frequently requested data and information on the Open Barnet portal. The report notes a third of all requests were answered with published data and information.

2. REASONS FOR RECOMMENDATIONS

- 2.1 To ensure that members are aware of the council's achievements with regard to FOI performance (see Appendix A) and the high standards it continues to set.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 There are no alternative options as this report is for committee to note.

4. POST DECISION IMPLEMENTATION

- 4.1 There are no post decision implementation relevant to this report

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The Council's Corporate Plan - Barnet 2024 has three outcomes for the borough focus on place, people and communities:

- a pleasant, well maintained borough that we protect and invest in
- our residents live happy, healthy, independent lives with the most vulnerable protected
- safe and strong communities where people get along well.

5.1.2 As outlined in the council's approach to this vision, providing access to transparent and Open Data ensure we deliver a 'efficient and effective council'.

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

5.2.1 No resource implications

5.3 **Social Value**

5.3.1 Not applicable

5.4 **Legal and Constitutional References**

5.4.1 Freedom of Information (FOI) Act 2000

5.5 **Risk Management**

5.5.1 There are no risks

5.6 **Equalities and Diversity**

5.6.1 Section 149 of the Equality Act 2010 sets out the Public-Sector Equality Duty which requires a public authority (or those exercising public functions) to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not
- foster good relations between persons who share a relevant protected characteristic and persons who do not.

5.6.2 The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services. The protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil Partnership

5.6.3 Changes to policies and services are analysed in order to assess the potential equalities impacts and risks and identify any mitigating action possible, through an equalities impact assessment, before final decisions are made. Consideration will also be made to the equalities and data cohesion summary.

5.7 **Corporate Parenting**

5.7.1 N/A

5.8 **Consultation and Engagement**

5.8.1 N/A

5.8 **Insight**

5.8.1 N/A

6. **BACKGROUND PAPERS**

6.1 Campaign of Freedom of Information - www.cfoi.org.uk

Campaign for
Freedom of
Information



FOI Good Practice

A survey of London local authorities



March 2019

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About the Campaign for Freedom of Information

The Campaign for Freedom of Information was set up in 1984. It played a key role in bringing about the Freedom of Information Act 2000 and improving what started out as an extremely weak bill. The Campaign now works to defend and improve the FOI Act, advise the public about their rights to information and provide training for both requesters and public authorities. It is funded by individual donations and by grants from the Joseph Rowntree Charitable Trust, The Indigo Trust and Trust for London.

This report

This report is part of a programme of work funded by Trust for London.

Research by Katherine Gundersen.

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Company No. 01781526

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Home Office staff sit in on council interviews with migrant families

Guardian 28.10.18

Home Office workers embedded in local councils are sitting in on interviews with destitute migrant families to “conduct real-time immigration status checks” on families applying for support. FOI disclosures revealed that 10 London boroughs have employed on-site immigration officers.

Hackney, Haringey, Southwark, Greenwich, Enfield, Barking and Dagenham, Lewisham, Harrow, Croydon and Bexley have all employed officers. Some have since amended or cancelled the arrangements

Lawyers and charities expressed concern that the presence of a uniformed Home Office worker at interviews is invasive and risks deterring destitute families from accessing support.

London council splashes out on £90,000 Rolls-Royce for bigwigs as it cuts childcare

Evening Standard 18.1.16

Westminster Council came under fire for spending tens of thousands of pounds on chauffeur-driven cars as it prepares to slash funded childcare for primary pupils.

Westminster bought a Rolls-Royce Silver Seraph for £90,000 in 2015 and spent a further £11,800 running it. It paid nearly £30,000 to lease an Audi A8L over the previous three years. The Lord Mayor, six former Lord Mayors and five Alderman of the City have access to the vehicles for hundreds of ‘engagements’ every year.

The Freedom of Information figures came as it emerged last month that nearly 50 play workers and support staff were set to be axed as part of plans to cut youth services.

London councils 'spending millions of pounds renting back right-to-buy homes'

London councils are spending more than £22 million a year renting back homes sold to former tenants under the 'right to buy'. A survey using the FOI Act by London Assembly member Tom Copley has shown that at least 42% of homes sold through the 'right to buy' are now rented to private tenants in London, rather than being lived in by the former council tenants. At least 54,000 former council homes are now on the private rental market of which 2,333 are being rented back by London councils to house homeless families. It has been suggested that councils may be deterred from building new homes by the prospect of being forced to sell them to tenants at a discount - and then having to rent them back.

<https://tomcopley.com/wp-content/uploads/2014/01/Tom-Copley-AM-Right-to-Buy-Wrong-for-London-report-January-2019.pdf>

Garden Bridge procurement flaws revealed

Before the cancellation of the proposed Garden Bridge across the Thames in 2017, a series of FOI requests by the Architects' Journal (AJ) had revealed serious flaws in the procurement of the design contract. These appear to have provided a clear advantage to Thomas Heatherwick, the designer working with Joanna Lumley, the bridge's leading advocate.

In response to one FOI request the Greater London Authority revealed that, before the tender specification had been published, Mr Heatherwick had attended four meetings on the project with the London Mayor Boris Johnson or his senior officials. Another FOI request indicated that Mr Heatherwick had joined Mr Johnson at a meeting in San Francisco in an attempt to persuade Apple to sponsor the Garden Bridge. Mr Heatherwick who had been working on the bridge's concept pro bono was apparently being treated as the bridge's intended designer, before the procurement process - which requires equal treatment of all bidders - had even begun.

An FOI request to Transport for London revealed that Mr Heatherwick's bid for the design contract had been scored 4 out of 5 for 'relevant design experience', though he had previously built only one bridge. The other two bidders received scores of 3 out of 5 though one had previously built 25 bridges. Significantly, the 2013 tender specification had referred only to a *pedestrian* bridge and made no reference to a garden element. Mr Heatherwick's prior involvement meant that he would have been aware of the preference for a Garden Bridge.

A further FOI request by the AJ showed that the bidders' fixed prices had been ignored and the bids scored on the basis of their daily rates. Although their daily rates were not the same each had received the identical score for commercial criteria. Heatherwick Studios' total price was later revealed to have been more than three times more expensive than the next highest bid.

Introduction

This report examines the extent to which London councils are following good practice in complying with the Freedom of Information (FOI) Act. It is based on an examination of the councils' own FOI policies, guidance, performance reports and statistics, the handling of our own FOI requests to them and a review of relevant Information Commissioner (IC) decisions. **Although the specific data relates to London local authorities the issues are common to all public authorities and the recommendations may be of wider relevance.**

The research has been funded by a grant from *Trust for London*.¹

The FOI Act and related Environmental Information Regulations (EIR) have been in force since 2005. They give the public powerful rights to information from public authorities about their decisions, policies and services. Nationally, the rights are used by hundreds of thousands of people a year. Around 60,000 requests are made annually to London councils.²

Requesters can enforce these rights by complaining to the IC and, beyond that, by appealing to a tribunal and the courts. But as important to the Act's effectiveness, is the spirit in which authorities approach it.

An authority that approaches FOI positively, recognising it as an important right and an opportunity to be open and accountable will respond in an entirely different way to one that is indifferent, badly informed, or worse, actively obstructive.

Some of the indicators of good practice that we consider in this report include:

- How well London councils comply with the statutory time limits for answering requests
- Whether they monitor and seek to improve their own FOI performance
- Whether they publish their FOI compliance statistics
- How they fulfil their duty to advise and assist requesters
- Whether they publish the information they have disclosed under FOI, so that it is available to the wider public and not just the requester
- The quality of the FOI guidance they produce for their staff
- Any special procedures they adopt in dealing with requests likely to attract publicity.

¹ <https://www.trustforlondon.org.uk>

² This figure has been compiled from information published by individual councils or released to us in response to our FOI requests.

Methodology

Our research covers London’s 32 borough councils plus the City of London Corporation and Greater London Authority. We started by carefully searching each authority’s website for its published information on FOI. We then made FOI requests to each, tailored to exclude the publicly available information. The request asked for copies of or links to any other information showing (a) their FOI policies and guidance (b) any FOI performance reports produced during the last two years, and (c) annual FOI statistics for the last two years. Our initial requests were made in 2016. We made further requests limited to more recent statistics/performance reports in January 2017, January 2018 and August 2018.

In this report, we generally use the term ‘FOI’ to refer to both the FOI Act and the EIR, unless the context indicates otherwise. We use the term ‘London council’ to refer to the 34 authorities covered by this report.

Number of requests

The number of FOI requests received by each London council is shown in Figure 1.³ The precise figures can be found in Appendix 1.

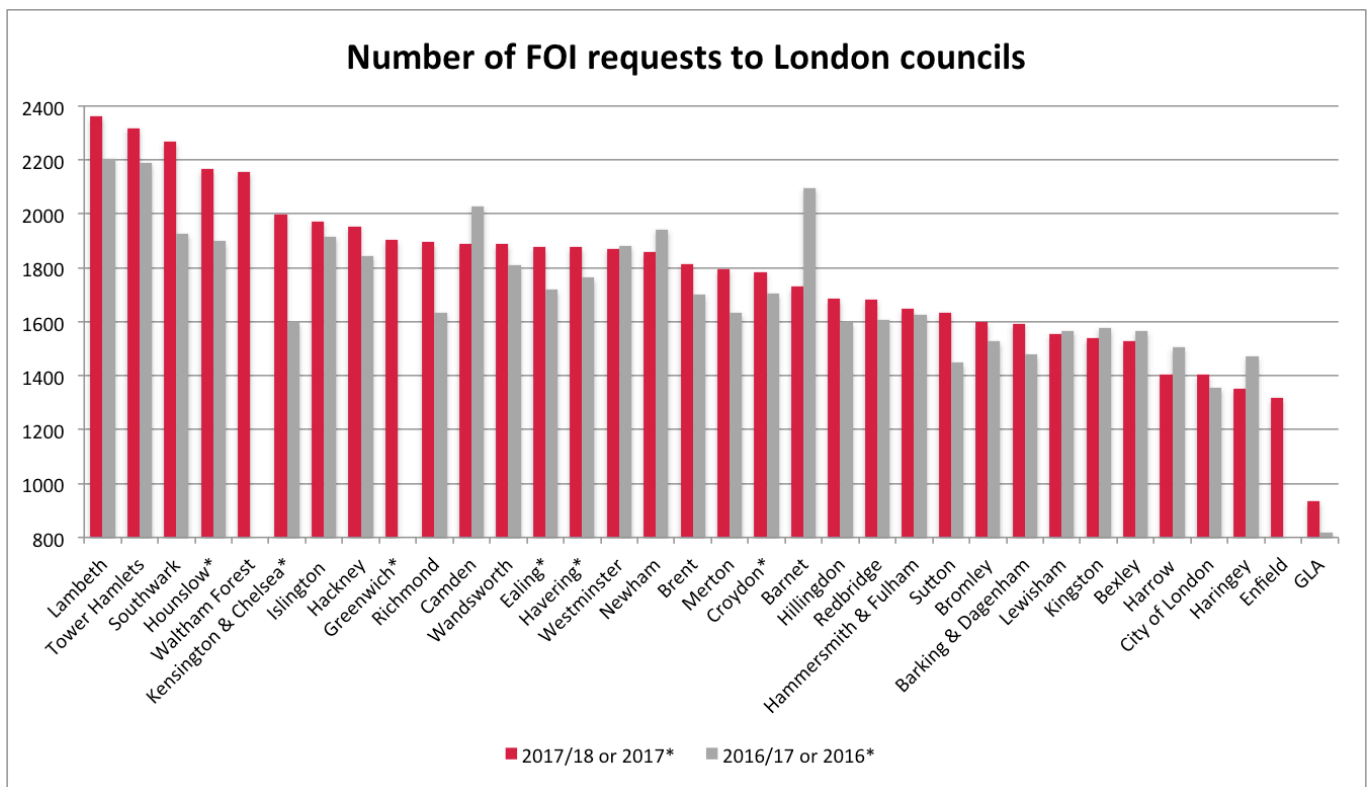


Figure 1 Number of FOI requests to London councils in 2017/18 & 2016/17 or 2017* & 2016*

³ Most of the statistics in Figure 1 and Appendix 1 are for the financial years 2017/18 or 2016/17, however those for Croydon, Ealing, Greenwich, Havering, Hounslow and Kensington & Chelsea are for the 2017 and 2016 calendar years. *Waltham Forest* wasn’t able to extract the number of requests received in 2016/17 from its system. *Greenwich’s* published statistics for 2016 cover an irregular period (5/11/15 – 31/12/16) and have therefore been omitted. *Bromley’s* statistics for 2016/17 include subject access requests, made under the Data Protection Act. *Enfield* provided an extremely high figure for 2016/17 that was 50% greater than the previous year and 38% higher than the following year. This is likely to be an inaccurate figure caused by the switch in that year to a new IT system for recording FOI requests and has been omitted from the chart.

Across all London councils there was an average increase of 4.2% in the volume of requests between 2016/17 and 2017/18.⁴ However, the volume of requests to some councils fell during the period, most notably in **Barnet** where a substantial increase in the volume of information published proactively has led to a fall in the number of FOI requests.

Compliance with time limits

Public authorities are required to respond to FOI requests promptly and within 20 working days, though extensions are permitted in certain circumstances.⁵

Some London councils deal with virtually all FOI requests within 20 working days, others only manage to answer around 60% within this period - a deeply disappointing level of performance.⁶ In 2017/18 (or 2017 in certain cases):

- Three London councils (**City of London**, **Tower Hamlets** and **Barnet**) answered more than 95% of requests on time. The next most punctual responders were **Richmond** (93%), **Barking & Dagenham** (93%), **Redbridge** (92%) and **Brent** (91%). These seven councils' figures refer solely to requests answered within 20 working days and do not include requests answered within 'permitted extensions'. The **GLA** and **Greenwich** both answered 90% of requests on time.
- At the other end of the scale, **Hounslow** answered just 60% of requests on time. The next least punctual responders were **Lewisham** (61%), **Bromley** (64%), **Enfield** (66%), **Harrow** (68%) and **Croydon** (69%). These council's figures refer to requests answered in 20 working days. **Hackney** answered 66% on time, including those answered within a permitted extension.
- Three quarters of London councils (**25/34**) failed to meet the IC's expectation that authorities should respond to at least 90% of requests on time.⁷

Detailed figures are shown in *Figure 2* below and *Appendix 2*. For further notes on some councils' figures see the footnote below.⁸

⁴ Although this figure refers to the financial years 2016/17 and 2017/18 it includes data from 6 councils which provided statistics for the calendar years 2016 and 2017. It excludes 3 councils for whom we did not have reliable data for both years.

⁵ The FOI Act contains a series of exemptions, but in many cases even exempt information may have to be disclosed if the public interest in disclosure equals or is greater than the public interest in upholding the exemption. Where an authority is considering disclosure in the public interest it may extend the Act's normal 20 working day time limit by a 'reasonable' period. The ICO says any extension should not normally exceed a further 20 working days, making 40 working days in total. The EIR position is different. The only permitted extension is where the authority reasonably believes that the volume and complexity of the requested information makes it impracticable to comply within 20 working days in which case an extension of up to another 20 working days is permitted.

⁶ A timely response to an FOI request is often vital. If there are significant delays the information may be too late to be of any use. For example, in a case involving a request for information about school travel plans, the IC found: *'The complainant had a vested interest in receiving this information as he required it to prepare for a planning application meeting, for development adjoining his property. In this case the delay of 61 working days, whilst not only being considerably outside the 20 working day limit, also meant that the complainant did not have the information he required for the planning meeting.'* Decision Notice FER0524908, London Borough of Richmond upon Thames, 21 May 2014.

⁷ The ICO says it may decide to monitor an authority's performance if *'it appears that less than 90% of requests are receiving a response within the appropriate timescales.'* How the Information Commissioner's Office selects authorities for monitoring, v4, 3 March 2017, <https://ico.org.uk/media/action-weve-taken/monitoring/2791/how-the-ico-selects-authorities-for-monitoring.pdf>

⁸ Most of the statistics in *Figure 2* and *Appendix 2* are for the financial years 2016/17 and 2017/18. However those for Ealing, Greenwich, Havering, Hounslow and Kensington & Chelsea are for the 2016 and 2017 calendar years. Kingston wasn't able to extract a figure for the number of requests answered on time in 2016/17 from its system. Greenwich's published statistics for 2016 cover an irregular period (5/11/15 – 31/12/16) and have therefore been omitted. Bromley's figure for 2016/17 includes subject access requests made under the Data Protection Act. The following London councils said their statistics for requests answered 'on time' meant answered within 20 working days: These were Barking & Dagenham, Barnet, Brent, Bromley, City of London, Croydon, Enfield, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Kensington & Chelsea, Lambeth, Lewisham, Redbridge, Richmond, Southwark, Sutton, Tower Hamlets and Westminster. The remaining third of councils include requests answered within a permitted extension as 'on time'

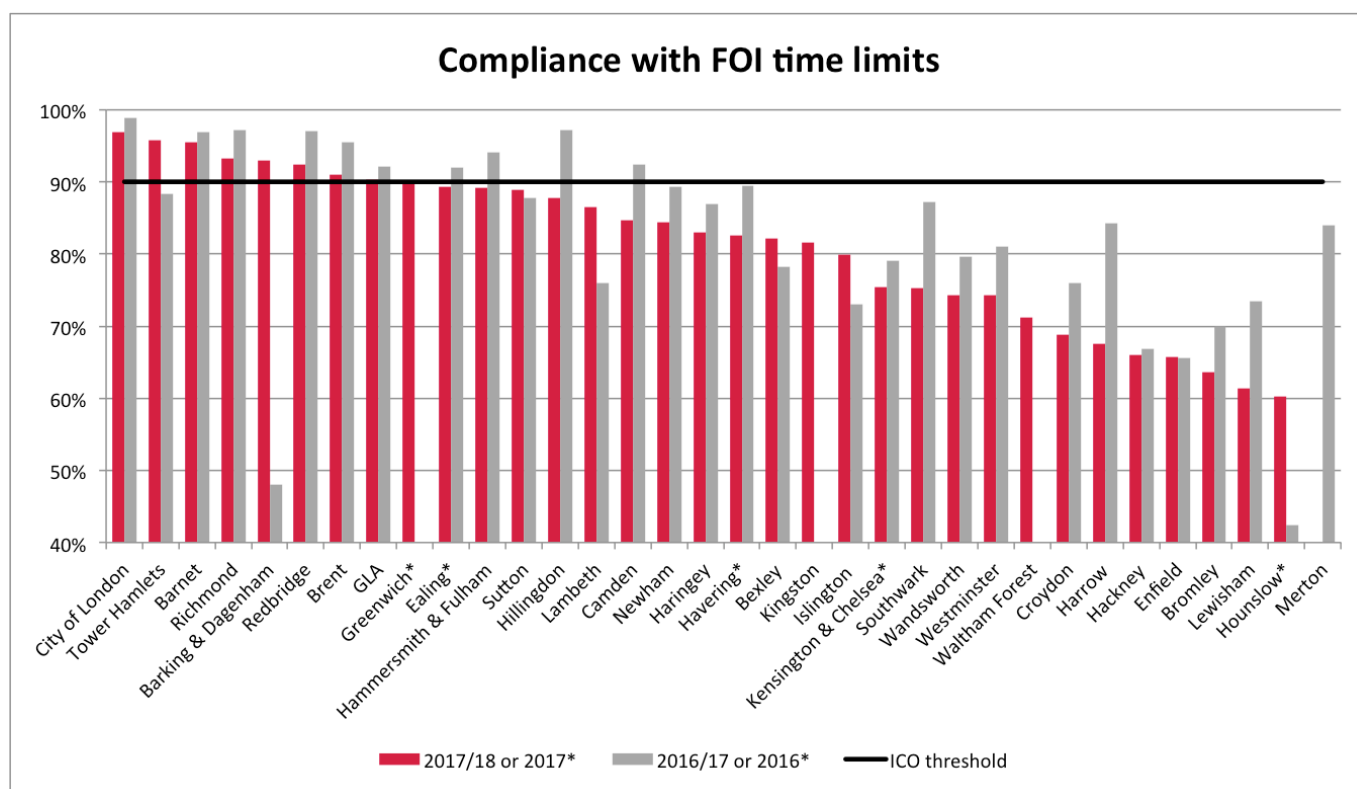


Figure 2 Percentage of FOI requests answered within the statutory time limits in 2017/18 & 2016/17 or 2017* & 2016

There was a similar disparity in the time taken to respond to our own 2016 request for London councils' FOI policies, guidance, performance reports and statistics. Response times varied between 1 and 220 days.

- A few councils replied almost immediately – **Haringey** provided the information the next day, **Redbridge** and the **Greater London Authority** within two working days, **Harrow** within 3 working days, **Camden** and **Merton** within 4 working days.
- **Most councils (25/34) replied within the required 20 working day time limit.** Four others replied slightly outside the limit, after 21 to 25 working days.
- **Enfield** took almost 5 months to reply, **Wandsworth** almost 4 months.
- The most delayed responses came from **Kingston** and **Greenwich**. Both took **more than 10 months to reply** and only did so after the IC intervened.
- **Barking & Dagenham** took 55 working days to reply, then wrongly claimed that it did not hold the requested information: its own web site clearly indicated that it did.⁹ It subsequently ignored our requests for it to carry out an internal review, only doing so when the IC intervened.¹⁰ **After almost a year, it finally disclosed 9 documents it had previously claimed did not exist.**

Detailed results are shown in *Figure 3* and *Appendix 3*.

⁹ Our FOI request included a request for any internal FOI guidance produced by Barking & Dagenham. A report to a council committee available on its web site said 'An updated FOI guide has been produced and the FOI process has been revised. The new guide has been supported by additional material published on the Council's intranet.'

¹⁰ Decision Notice FS50649699, London Borough of Barking & Dagenham, 17 January 2017.

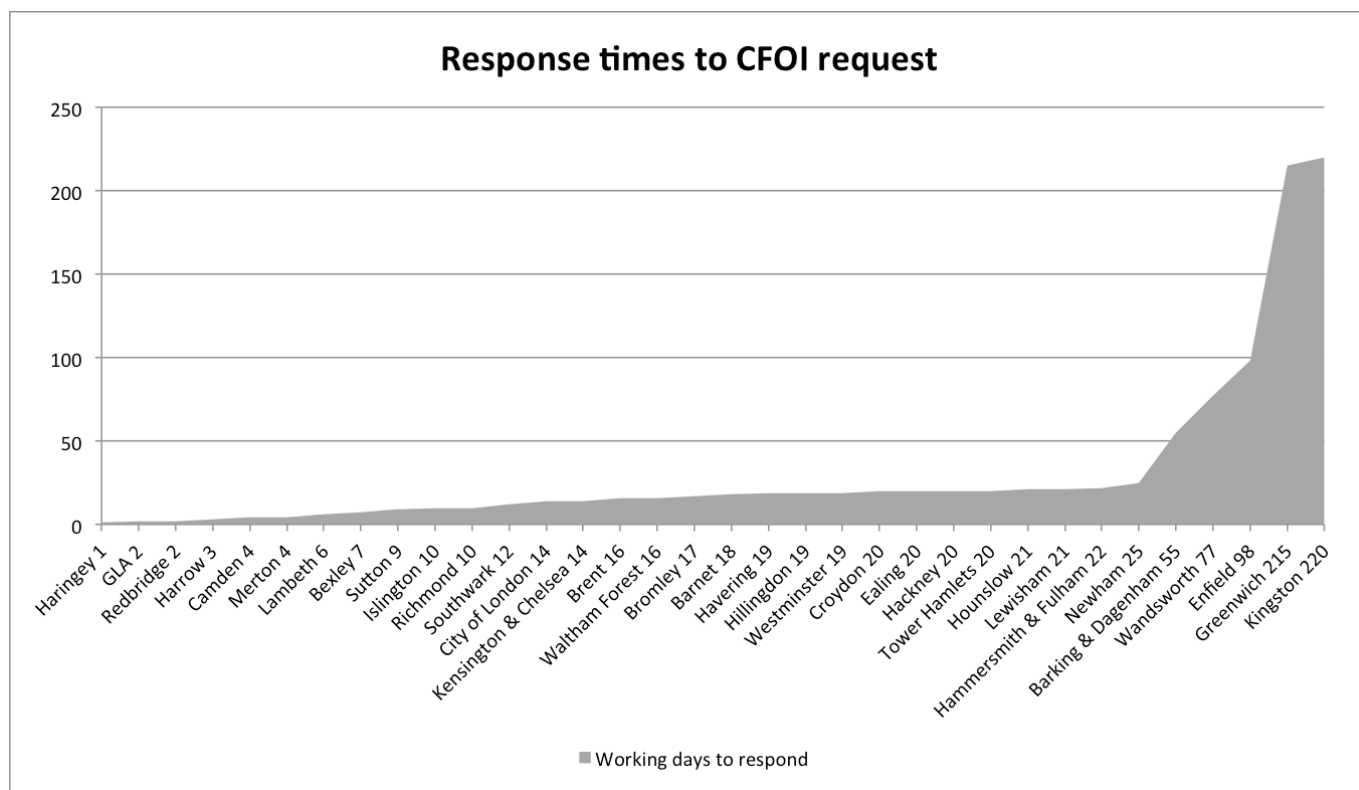


Figure 3 Number of working days to respond to CFOI request made in 2016

Complaints to the Information Commissioner

In the course of this project, we have had to make eight complaints to the IC about seven London councils which had failed to respond to one or more of our requests for information or internal review.¹¹

The complaints about **Barking & Dagenham**, **Greenwich**, and **Kingston**, have been referred to above.

Having found that some councils had ignored our earlier requests for up to 10 months until the IC intervened, we complained to the IC promptly about delayed answers to our subsequent requests. We made five further complaints to the IC about delays in providing more recent council statistics. The most significant were:

- **Kensington & Chelsea** which had failed to respond to our request for two and a half months. After being contacted by the IC it provided the figures **59** working days after the request.
- **Wandsworth** failed to respond to a request for statistics, or to a reminder from us, or an email from the IC. After being served with a decision notice it provided the statistics after **70** working days.
- **Hackney** failed to answer a request from us for over 4 months, despite two reminders. After being contacted by the IC the council finally supplied its statistics after **110** working days.

¹¹ The Information Commissioner will usually not investigate a complaint unless the requester has first asked the authority to reconsider its decision and this 'internal review' has been completed.

We received no response from **Westminster** to an August 2018 request for recent statistics despite a reminder from ourselves and several IC interventions, including a decision notice. After the passage of the 35 calendar days allowed for complying with the decision notice, a warning of action for contempt of court if it did not comply within another 7 days, and contact preparatory to such action by the IC's lawyer, Westminster finally responded to the IC. It claimed to have replied to our request more than three months earlier, and provided the IC (though not us) with a copy of the reply that had purportedly been sent. No such reply had been received by us or, despite repeated checks, been found in our spam folder. Assuming it had indeed been sent on the day in question, the council had displayed remarkable disrespect to the IC by ignoring its requests for action or explanation. We received the statistics via the IC **104** working days after our request.

The severe delays in the handling of our requests by some councils are remarkable because:

- **We had expressly stated that our requests were for a report to be published on good FOI practice. It must have been obvious that failure to answer would be conspicuous evidence of poor practice.**
- **The requests were for information about FOI policies, performance and statistics which the FOI teams would have held themselves. They would not have needed to chase other departments for information and should have been able to answer promptly.**

Further evidence of delays

The problems that we experienced are not unique. Many other cases of severe delay can be found in the decision notices published by the IC between 2016 and 2018:

- A request to **Lewisham** was unanswered after **231** working days (more than 11 calendar months). The request asked for policies on the provision of accommodation and financial support to families whose immigration status barred them from obtaining most benefits. The IC twice intervened to tell the council to answer, without success, until finally ordering it to reply.¹²
- A different request to **Lewisham** on the same topic was still unanswered after **112** working days, despite twice being chased by the requester. The council claimed to be relying on a permitted extension to the normal time limit¹³ but had not taken any of the steps necessary to invoke it, eliciting a forceful rebuke from the Commissioner.¹⁴ The council then withheld some of the requested information, adopting the correct procedure. After significant delay on the IC's part, this eventually resulted in a second decision notice ordering its disclosure, by which time the requester had been waiting for **301** working days or **fourteen and a half months**.
- Another requester asked **Lewisham** for information relating to the care of her deceased brother and associated information. The request was still outstanding after **111** working days, despite three IC reminders to the council.¹⁵ In 2017/18 Lewisham answered only 61% of requests on time.

¹² Decision Notice FS50633026, London Borough of Lewisham, 14 June 2016.

¹³ The Act allows an extension to the 20 working day response period where this is required to consider disclosing exempt information in the public interest. Where an authority is relying on this provision, it must notify the applicant within 20 working days and provide an estimate of when its decision on the public interest test will be reached.

¹⁴ The decision states: *'The Commissioner does not regard the Council's handling of this request as acceptable and understands why it has given rise to considerable frustration on the part of the complainant. He expects the Council to rectify its failings as a matter of urgency and would not expect to see a recurrence of similar problems in future.'* Decision Notice FS50625137, London Borough of Lewisham, 23 June 2016.

¹⁵ Decision Notice FS50729759, London Borough of Lewisham, 9 March 2018.

- A request to **Newham** was unanswered after **136** working days. The applicant was seeking information about the council's rights to social housing built in the Olympic Park. This was the applicant's third request, the previous two having been refused as too broad. The requester had been trying to obtain the information for **9 months** by the time the IC ordered the council to respond.¹⁶
- Another request to **Newham** for copies of two fire risk assessments at a specific address was answered after **84** working days. The requester chased the council three times before it disclosed the information.¹⁷
- A request to **Waltham Forest** about its policies to assist male partners and their children fleeing from domestic violence remained unanswered after **133** working days, although the IC had twice asked the council to respond.¹⁸
- Another request to **Waltham Forest** about planning decisions relating to Leyton High Road was still unanswered after **112** working days.¹⁹
- A request to **Southwark** about the leases and development of two day centres had not been answered after **121** working days, at which point the IC ordered it to respond.²⁰
- A request to **Bromley** for information about the Adult Social Care Precept was answered after **112** working days.²¹
- A request to **Wandsworth** for information about a market rate evaluation of allotments was outstanding after **111** working days. The IC had chased the council without success.²²
- A request to **Ealing** about the outcome of an application for a sexual entertainment venue licence (which the licensing subcommittee had said had been refused) was still outstanding after **109** working days. The requester had chased the council three times and the IC had twice asked it to reply before finally ordering it to do so.²³
- A request to **Hammersmith & Fulham** for information relating to parking meters and the introduction of the new £1 coin was outstanding after **106** working days.²⁴
- Two requests to **Croydon** for information about planning applications were outstanding after **104** and **64** working days respectively. The council later explained that it had changed its FOI email address but that its old mailbox, which was no longer being checked, had continued to accept correspondence without always generating an automated response.²⁵

¹⁶ Decision Notice FS50640394, London Borough of Newham, 1 December 2016.

¹⁷ Decision Notice FS50723127, London Borough of Newham, 1 March 2018.

¹⁸ Decision Notice FS50625951, London Borough of Waltham Forest, 13 June 2016.

¹⁹ Decision Notice FS50648096, London Borough of Waltham Forest, 4 January 2017.

²⁰ Decision Notice FS50681158, Southwark Council, 29 August 2017.

²¹ Decision Notice FS50761605, London Borough of Bromley, 30 July 2018.

²² Decision Notice FS50766218, London Borough of Wandsworth, 7 September 2018.

²³ Decision Notice FS50609184, London Borough of Ealing, 12 April 2016.

²⁴ Decision Notice FS50750956, London Borough of Hammersmith & Fulham, 27 July 2018.

²⁵ Decision Notice FER0745851, London Borough of Croydon, 28 June 2018.

- No fewer than 8 decision notices were served on **Kensington and Chelsea** on a single day in March 2018 for failing to respond to requests about the Grenfell fire. In the most delayed case there had been no reply after **178** working days. The Commissioner recognised that the council was faced with *'exceptional and difficult circumstances'* but said that the council's *'complete failure to engage with her office in any way'* had made any attempt at informal resolution of the complaints *'impossible'*.²⁶ The problem was not restricted to requests about Grenfell: the IC later issued two decision notices against the council for ignoring other requests and the IC's emails about them. These involved a lease with a local school²⁷ and street trading licences for the Notting Hill Carnival.²⁸ The council had failed to respond to the latter for **8 months**.

Most of these decision notices would simply have required the council concerned to *respond* to the request rather than disclose information. If the council then withheld the information, for example on the grounds that an exemption applied, there might be further months of delay while those grounds were challenged.

The first stage in challenging an authority's refusal to disclose is to ask it to carry out an 'internal review' to reconsider its decision. The IC says this process should take *'no longer than 20 working days in most cases, or 40 in exceptional circumstances.'*²⁹ However, decision notices show that:

- **Hackney** took **153** working days to carry out one internal review.³⁰
- An internal review by **Waltham Forest** took **112** working days before confirming its decision that its housing benefit policies and legislation on the subject could be found on the internet.³¹ The time needed to confirm this should have been minimal.
- An internal review by **Islington**³² and one by **Lambeth**³³ each took **109** working days.
- An internal review by **Lewisham** took **94** working days.³⁴
- One by **Westminster** took **85** working days.³⁵
- **Hammersmith & Fulham** took **84** working days in one case³⁶ and **79**³⁷ in another.
- **Croydon** took **67** working days to respond to one request with the subsequent internal review still outstanding after a further **79** working days.³⁸

The overwhelming majority of London councils (31/34) publish no statistics on the time they take for internal reviews - so the actual delays may be worse than these examples suggest.

²⁶ Decision Notice FS50700493, Royal Borough of Kensington & Chelsea, 2 March 2018

²⁷ Decision Notice FS50733831, Royal Borough of Kensington & Chelsea, 18 May 2018

²⁸ Decision Notice FS50730437, Royal Borough of Kensington & Chelsea, 18 May 2018

²⁹ Guide to Freedom of Information, page 60,

<https://ico.org.uk/media/for-organisations/guide-to-freedom-of-information-4-9.pdf>.

³⁰ Decision Notice FER0620853, London Borough of Hackney, 8 February 2017.

³¹ Decision Notice FS50610846, London Borough of Waltham Forest, 9 May 2017.

³² Decision Notice FS50651501, London Borough of Islington, 25 September 2018.

³³ Decision Notice FS50619532, London Borough of Lambeth, 3 May 2017.

³⁴ Decision Notice FER0623313, London Borough of Lewisham, 20 October 2016.

³⁵ Decision Notice FER0655597, London Borough of Westminster, 6 May 2017.

³⁶ Decision Notice FER0616171, London Borough Hammersmith and Fulham 2 August 2016

³⁷ Decision Notice FS50599759, London Borough of Hammersmith and Fulham, 26 May 2016.

³⁸ Decision Notice FER0767380, London Borough of Croydon, 5 September 2018.

Some councils have been slow to respond to the IC's requests to reply to requesters or have ignored the IC altogether. The same has sometimes been true of her requests for information needed for an ongoing investigation. On occasions, the IC has had to issue or threaten to issue a formal Information Notice,³⁹ compelling councils to provide her with information:

- **Hammersmith & Fulham** failed to reply to IC's inquiry about property development schemes for three and a half months, leading the IC to serve an Information Notice. The IC had asked a relatively straightforward question: why the council considered the information fell under the FOI Act and not, as would normally be the case for such schemes, under the EIR.⁴⁰ In another case an Information Notice was served on the same council after the IC reported that she had experienced '*several significant delays*' in obtaining information from it.⁴¹
- **Lewisham** was served with an Information Notice during an investigation into a complaint about the refusal to disclose a PFI contract relating to housing stock. The council failed to comply with the notice within the required period. Although the information was eventually provided the Commissioner noted that '*this significantly delayed the completion of her investigation and wasted a considerable amount of her staff's time.*'⁴²
- The IC cited **Croydon's** '*poor engagement*' with her office during a 2018 case, noting that '*It took the London Borough two months and the potential of an Information Notice to provide a substantive response to her initial investigation. When the London Borough did respond, it disclosed the wrong information and provided arguments in relation to that incorrect information.*'⁴³

Progress of individual authorities

Some councils have been struggling to meet the statutory time limit for several years:

- **Lewisham** answered only 61% of requests on time in 2015/16, improved to 73% in 2016/17 and returned to 61% in 2017/18.⁴⁴
- **Wandsworth's** performance has deteriorated steadily from 89% answered on time in 2014 to 74% in 2017/18. Performance in Quarter 2 of 2018/19 was just 56%.⁴⁵
- **Bromley's** performance slid from 77% in 2014 to 71% in 2015, 70% in 2016/17 and 64% in 2017/18. Since 2012 requests have been handled by officers in individual departments after budget savings resulted in the removal of its central FOI resource. Concerns were expressed at the time '*that capacity for coordinating requests and holding expertise centrally was being lost.*'⁴⁶

³⁹ Issued under section 51 of the FOI Act.

⁴⁰ Decision Notice FS50601532, London Borough of Hammersmith & Fulham, 26 May 2016.

⁴¹ Decision Notice FS50649977, London Borough of Hammersmith & Fulham, 19 April 2018.

⁴² Decision Notice FS50612528, London Borough of Lewisham, 6 December 2016.

⁴³ Decision Notice FS50737881, London Borough of Croydon, 20 November 2018.

⁴⁴ Figures supplied in response to our FOI requests.

⁴⁵ London Borough of Wandsworth, Finance and Corporate Overview and Scrutiny Committee on 22 November 2018, Progress Report - including Q2 Performance on Toplines and Key Issues (Paper No. 18-430), page 10, <https://democracy.wandsworth.gov.uk/documents/s62171/Paper%20No.%2018-430%20-%20Progress%20Report%20-%20Including%20Q2%20Performance%20on%20Toplines%20and%20Key%20Issues.pdf>.

⁴⁶ London Borough of Bromley, Minutes of the General Purposes and Licensing Committee held on 14 March 2012, <https://cde.bromley.gov.uk/documents/g4084/Printed%20minutes%20Wednesday%2014-Mar-2012%2019.30%20General%20Purposes%20and%20Licensing%20Committee.pdf?T=1>.

- **Enfield's** performance was below 65% in five successive quarterly periods (from Q2 2017/18 to Q2 2018/19). A November 2018 report stated that performance in responding to FOI requests, complaints and member's enquiries '*has significantly reduced following centralisation of the team and a reduction in resources.*' A number of actions are reportedly being taken to improve performance by the end of 2018/19.⁴⁷
- **Hackney** answered only 54% of requests on time in 2013/14 and despite improving since then has only been answering between 66% and 70% on time in the three years to the end of 2017/18.⁴⁸
- **Hounslow's** performance fell sharply from answering 72% of requests on time in 2014 to 42% in 2016 and was only up to 60% in 2017/18. In January 2018 the council reported that despite measures to improve its efficiency it was still 'poorly performing' partly because of a backlog of requests.⁴⁹ It answered 71% of requests on time in Quarter 2 of 2018/19, but was predicting performance of 60% for the following two quarters.⁵⁰
- The IC required **Islington** to sign an undertaking in 2011 to ensure that it answered requests on time.⁵¹ Despite this, its performance actually deteriorated in each of 4 subsequent years, falling from 82% in 2011/12 to 63% in 2015/16. The council's performance improved to 73% in 2016/17 and 80% in 2017/18, although it is still below the IC's standard.

However, some councils have achieved substantial improvements:

- **Barnet** was monitored by the Information Commissioner's Office (ICO) in 2010 when it was answering only 71% of requests on time. By 2012/13 it was answering 92% on time. Between 2013/14 and 2017/18 it consistently answered at least 96% of requests in 20 working days.⁵²

The measures it took included recruitment to address understaffing, a new case management system to track requests, a disclosure log to publicise released information, proactive publication of datasets containing regularly requested information and monthly and weekly performance monitoring reports.^{53,54}

⁴⁷ London Borough of Enfield, Cabinet meeting on 12th December 2018, Q2 Performance Report, Appendix 2, page 3.

<https://governance.enfield.gov.uk/documents/s72005/newCabinet%20Q2%20APDX2%20002.pdf>

⁴⁸ Figures obtained from Hackney Council show the percentage of requests it answered on time was 54% in 2013/14, 73% in 2014/15, 70% in the 2016 calendar year, 67% in 2016/17 and 66% in 2017/18.

⁴⁹ 'Last year there were over 2,000 FOIs and there is a legacy of 200 overdue FOIs...A new case management system which logs complaints and FOIs has been implemented. Directors monitor performance monthly in order to improve this position. There is also an effort to improve the range of stock answers to answer repeat FOIs.' Minutes of the Overview and Scrutiny Committee held on 22 January 2018

<https://democraticservices.hounslow.gov.uk/documents/g9993/Printed%20minutes%20Monday%2022-Jan-2018%2019.00%20Overview%20and%20Scrutiny%20Committee.pdf?T=1>

⁵⁰ London Borough of Hounslow, CEX 335 Quarter Two (July to September 2018) Performance Monitoring Report, Appendix 3 Revised action plans – Q2 2018/19, <https://democraticservices.hounslow.gov.uk/documents/s147476/Appendix%203%20-%20CEX%20335%20Revised%20Action%20Plans.pdf>

⁵¹ ICO press release 'Government departments facing regulatory action for transparency delays', 12 April 2011,

[https://webarchive.nationalarchives.gov.uk/20110601171824/http://www.ico.gov.uk/~media/documents/pressreleases/2011/foi_monitoring_news_relea](https://webarchive.nationalarchives.gov.uk/20110601171824/http://www.ico.gov.uk/~media/documents/pressreleases/2011/foi_monitoring_news_release_20110412.ashx)

⁵² Datasets on Barnet's performance against the 20 working day time limit are published on its Open Data portal <https://open.barnet.gov.uk/topic/council-democracy?tag=FOI>.

⁵³ Letter from Interim Chief Executive of Barnet Council to Information Commissioner, 30 April 2013.

[https://www.whatdotheyknow.com/request/159944/response/395622/attach/html/8/130430 ICO response from Chief Executive FINAL.pdf.html](https://www.whatdotheyknow.com/request/159944/response/395622/attach/html/8/130430%20ICO%20response%20from%20Chief%20Executive%20FINAL.pdf.html)

⁵⁴ Examples of Barnet's monitoring reports were disclosed in response to our request and can be viewed on its disclosure log by searching requests received on 14/1/16 and 'freedom of information'.

Although the annual volume of requests Barnet received increased by 36% in the four years between 2012/13 and 2016/17 (from 1,542 to 2,097) it then fell by 17.5% (to 1,731) in the following year. The council attributed this to the volume of open data it had published and the publication of a disclosure log. **A third of all requests and no less than 73% of those dealing with business rates and parking were dealt with by referring requesters to such published information. This is a striking indication of the value of proactive publication targeted at issues attracting large volumes of requests.**⁵⁵

- **Brent** went from answering only 55% of its requests on time in 2013/14 to answering 96% on time in 2016/17 and 91% in 2017/18. The steps it took included an upgrade of its case management system, FOI officers began circulating a list of requests due in the next 3 days, strategic directors were sent reports indicating requests that were due and overdue and the Corporate Management Team were provided with monthly performance information.⁵⁶
- **Tower Hamlets** answered 96% of requests in 20 working days in 2017/18, an improvement on the 88% figure for 2016/17 and 85% in 2015/16. In the same period, the volume of requests it received increased by 19%. It attributed the improvement to an *'increase in awareness and officers becoming more familiar with the new [case management] software.'*⁵⁷ It also said *'Monitoring measures were emphasised to improve performance which was effective as the rate of responding in time improved throughout the year.'*
- **Ealing** answered 92% of requests on time in 2016, a 9% improvement on 2010, despite a 72% increase in the number of requests during the period. In 2017 it answered 89% of requests on time.⁵⁸ A significant factor appears to have been the use of internal deadlines for dealing with each stage of a request and the systematic chasing of staff to comply with them.
- **Greenwich** answered only 37% of requests on time in 2013 and only 43% on time in 2014. This led the IC to carry out extended monitoring of the council for a full year. By 2017 it was answering 90% of requests on time. A number of measures have been put in place to maintain this, including regular reports to senior management, updated guidance and procedures, regular meetings of departmental FOI staff to deal with any issues, a recently improved IT system, random checks on the quality of responses and the review by the council's legal services of all exemptions claimed.⁵⁹

⁵⁵ London Borough of Barnet, Information Management Report, 19 January 2018 and presentation by Barnet's Information Management Officer at a seminar held by Campaign for Freedom of Information in July 2018.

⁵⁶ London Borough of Brent, Audit Committee meeting on 26 June 2014, Internal Audit Year End Progress 2013/14, June 2014, <http://democracy.brent.gov.uk/documents/s24778/4.1%20Internal%20Audit%20Progress%20Report%20appendix%201.pdf>.

⁵⁷ London Borough of Tower Hamlets, Complaints and Information Governance Annual Report 2016-17, , [https://democracy.towerhamlets.gov.uk/documents/s116863/CI Annual Report 2016 2017 Draft 2017 Sep 04 v2 1.pdf](https://democracy.towerhamlets.gov.uk/documents/s116863/CI%20Annual%20Report%202016%202017%20Draft%202017%20Sep%2004%20v2%201.pdf). This report is marked draft but was considered by the Overview and Scrutiny Committee on 23 November 2017.

⁵⁸ London Borough of Ealing, Standards Committee meeting on 22 March 2018, Overview of the Council's Freedom of Information Performance, available from <https://ealing.cmis.uk.com/ealing/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/5628/Committee/10/Default.aspx>.

⁵⁹ London Borough of Greenwich, Corporate Finance and Performance Scrutiny Panel meeting on 27 September 2017, Responses to Freedom of Information Requests, <http://committees.royalgreenwich.gov.uk/documents/s59324/FOI%20Reports.pdf>.

- **City of London** says it has reduced the average time taken to answer a request from 9.42 hours in 2005 to 4.2 hours in 2015 *'in spite of a perceived trend towards larger and more complex individual requests.'*⁶⁰ It says this improvement is *'a reflection of the continuing build-up of expertise within departments (under central guidance and supervision).'* It also says better request handling has reduced the number of complaints to less than 1% of requests in 2015, with significant savings of staff time.⁶¹
- **Barking & Dagenham's** compliance with the time limit was extremely poor for a number of years, falling from 77% in 2013/14 to just 53% in 2016/17. The council brought its FOI team back in-house in April 2015 (it had been outsourced to a joint venture) and established a new centralised team.⁶² In 2017/18 it answered 93% of requests in 20 working days, an improvement of 40% over the previous year despite receiving 8% more requests. It stated that workshops were taking place to support further improvement and it was in the process of publishing its FOI requests, responses and performance rates online.⁶³
- Some poor performance may partly be explained by something as simple as the loss of an experienced FOI officer. In **Newham** the return of such an officer from leave helped performance recover from 66% in 2015/16 to over 90% in April 2016, though better monitoring, more proactive publication and other measures were also said to have contributed.⁶⁴ In 2017/18 it answered 84% of requests on time.
- **Lambeth** reported that a dip in its performance coincided *'with the departure of the Council's FOI Coordinator in June [2016] and the gap before a replacement joined in October and the absence of other staff responsible for coordinating responses to FOI requests...With appointment of a new FOI Coordinator and other Corporate Complaints Unit staff caseloads are at a more manageable level.'*⁶⁵ Performance improved from 76% in 2016/17 to 87% in 2017/18 despite a 7% increase in the volume of requests over the period.

⁶⁰ A report to its chief officers, which was disclosed in response to our request, says: *'It is considered that these improvements are a reflection of the continuing build-up of expertise within departments (under central guidance and supervision).'* City of London Corporation, Freedom of Information / Environmental Information Regulations 2015 Annual Report to Summit Group.

⁶¹ It states: *'It is considered that the proper, detailed arguing of exemptions obviates possible complaints, which have the potential to be time consuming and draw in senior management and the Comptroller & City Solicitor's Department; and therefore the standard of responses has been maintained at a high level over the years.'*, *ibid.*

⁶² London Borough of Barking & Dagenham, Public Accounts and Audit Select Committee meeting on 3 February 2016, Information Governance Annual Report, <https://modgov.lbbd.gov.uk/internet/documents/s98915/PAASC-Report-InformationGovernance.pdf>.

⁶³ London Borough of Barking & Dagenham, Public Accounts and Audit Select Committee meeting on 24 January 2018, Information Governance Annual Report and Local Government Ombudsman Complaints, <https://modgov.lbbd.gov.uk/internet/documents/s118927/Report.pdf>.

⁶⁴ *'Better monitoring and escalation when services do not respond in time are now in place, and regular updates will be given to services on performance, with a breakdown of where delays in receiving information are occurring. Information is shared to identify hot topics that are emerging, so that steps can be made to handle information more effectively through communications, making information available on the web, etc. In addition potential future requests are identified and steps are taken accordingly in order to deal with increase in requests, such as standard responses, information on the web, etc.'*, London Borough of Newham, Audit Board meeting on 28 June 2016, Freedom of Information Annual report – Requests received in 2015/16, <https://mgov.newham.gov.uk/documents/s105713/FreedomofInformationFinal2016.pdf>.

⁶⁵ London Borough of Lambeth, Corporate Committee meeting on 28 September 2017, Complaints, Members' Enquiries and Freedom of Information Act requests 2016/17, <https://moderngov.lambeth.gov.uk/documents/s91029/Complaints.pdf>.

- **Camden** improved the proportion of requests answered in 20 working days from 83% in 2014/15 to 92% in both 2015/16 and 2016/17, although performance dipped again to 85% in 2017/18. The dip was partly caused by the secondment of staff across the council to help with the evacuation of a housing estate because of concerns about its cladding and the failure of its case management system. The council said it was procuring a new case management system and trying to increase proactive publication. In Quarter 2 of 2018/19 Camden answered 98% of requests on time - the best performance it had ever achieved.⁶⁶

The council has also recorded a fall in the volume of FOI requests which it says is because it is now answering several hundred of its simpler requests on a 'business as usual' basis and no longer including them in its FOI statistics. The ICO permits requests for routine information to be answered in this way as long as it is provided in full. The effect is to reduce the reported volume of FOI requests while increasing the reported average response time, as many easily answered requests have been removed from the statistics. This makes its recent performance of 98% all the more impressive.

- **Kensington and Chelsea** met nearly 80% of its requests in 20 working days in 2016 and 75% in 2017. But following a 25% increase in requests after the Grenfell fire its performance collapsed: for most of 2018 it was meeting only 32% of requests on time. At one point it had 212 overdue requests some having been unanswered for many months. Its problems were exacerbated by the lack of internal performance monitoring and the fact that just a single member of staff dealt with requests, with some help from their manager where possible. It has since introduced a new case management system, trained additional staff in FOI and begun weekly performance reporting bringing its compliance rate up to around 80% in September/October 2018. It is proposing to put regularly requested information online and is studying best practice in other organisations.⁶⁷

These accounts draw heavily on London councils' own performance monitoring reports. However, two London councils (**Bromley and Hackney**) told us they don't produce such reports – and so appear to lack a basic tool for improving performance.

As these accounts show, poor performance is not inevitable. Some London councils (including Barking & Dagenham, Barnet, Ealing, Lambeth and Tower Hamlets) have not only significantly improved their compliance with statutory time limits, but done so despite an increasing volume of requests.

Many of the measures they have used are not cost intensive. They include better tracking and reminders to staff of approaching deadlines, closer monitoring by authorities of their performance, the use of disclosure logs and proactive publication to publish information known to attract frequent requests and, crucially, the retention of experienced FOI staff. Many authorities have made use of commercial case management systems, which track requests, provide alerts as deadlines approach, generate performance reports and publish released material to a disclosure log at the push of a button. **The similarities in the methods used by councils which have improved their performance suggests how others might go about this.**

⁶⁶ London Borough of Camden, Resources and Corporate Performance Scrutiny Committee meeting on 11 December 2018, Quarter 2 Performance Report 2018/19, <http://democracy.camden.gov.uk/documents/s76656/Q2%2018-19%20Corporate%20Services%20performance%20RCP%20Scrutiny%20draft.pdf>.

⁶⁷ Royal Borough of Kensington & Chelsea, Executive and Corporate Services Scrutiny Committee on 10 December 2018, Review of Freedom of Information Process, available from <https://www.rbkc.gov.uk/committees/Meetings/tabid/73/ctl/ViewMeetingPublic/mid/669/Meeting/7827/Committee/1539/SelectedTab/Documents/Default.aspx>.

The Information Commissioner's role

An essential incentive for authorities to improve their performance is the threat of IC enforcement action. Unfortunately, as this report shows, some authorities are prepared to ignore the IC's interventions altogether, unless made in the form of a legally binding notice.

If the IC finds a requester's complaint justified, she can issue a Decision Notice requiring the authority to take specified steps to comply with the legislation.⁶⁸ Our research has benefitted from several such notices. But while they provide a remedy for the individual complainant, a decision notice cannot require an authority to address a systemic problem.

The IC also has the power to issue an Enforcement Notice where the legislation has been breached even if the infraction has not been the subject of complaint.⁶⁹ An Enforcement Notice cannot require an authority to deal with *future* requests on time, but it can require it to respond to all *currently* overdue requests by a set deadline.

Yet only four Enforcement Notices have been issued since the legislation came into force in 2005, and - inexplicably - only two have ever dealt with delays.⁷⁰ It is not clear why successive Information Commissioners have proved so reluctant to use them.

An Enforcement Notice is capable of assisting dozens or even hundreds of requesters with overdue requests at a stroke. It provides a strong incentive to the authority to take steps to ensure that a build up of overdue requests does recur. It should also reduce the IC's workload, avoiding the need for separate investigations and rounds of correspondence as each requester complains about the same authority.

In 2010 the ICO announced that it would be taking a tougher approach to FOI enforcement:

*'Where there is evidence that a public authority is regularly or seriously failing to meet its obligations, the ICO will not hesitate to take regulatory action, particularly where organisations fail to respond to requests in a timely manner. The ICO has identified timeliness as a key target for action, in recognition that a quarter (between 20-25%) of FOIA complaints to the ICO relate, at least in part, to the time taken for public bodies to respond to requests.'*⁷¹

A significant element of this approach involved monitoring individual authorities which were not dealing with requests on time, usually for three months. Authorities were warned that if they failed to improve they might face enforcement action.⁷²

London councils which have been monitored in the past are:

- **Barnet, Croydon, Ealing, Hammersmith & Fulham, Islington, Newham and Westminster** (all in October to December 2010).
- **Kingston and Southwark** (April – June 2011)

⁶⁸ Freedom of Information Act 2000, section 50

⁶⁹ Freedom of Information Act 2000, section 52

⁷⁰ These were served on the Independent Police Complaints Commission in June 2010 and the Department of Finance and Personnel for Northern Ireland in June 2015.

⁷¹ ICO press release, ICO takes tougher approach to FOI enforcement, 21 July 2010, https://webarchive.nationalarchives.gov.uk/20101125173822/http://www.ico.gov.uk/~media/documents/pressreleases/2010/ENFORCEMENT_POLICY_200710.ashx.

⁷² Freedom of Information regulatory action policy, version 3.0, updated December 2012, https://ico.org.uk/media/about-the-ico/policies-and-procedures/1859/freedom_of_information_regulatory_action_policy.pdf.

- **Barnet** (April - June 2013)
- **Hackney** (January - March 2014)
- **Lambeth and Tower Hamlets** (September - Nov 2014)
- **Greenwich** (May 2014 - May 2015)
- **Newham** (September – November 2016)
- **Lambeth** (January - March 2017)

Monitoring contributed to significant improvements by **Greenwich** (which answered 90% on time in 2017) and **Barnet** (which has been above 95% for several years). After its 2017 monitoring, **Lambeth** improved from answering 76% of requests on time in 2016/17 to 86.5% on time in 2017/18, and acknowledged that the improvement had been *'influenced in no small part'* by the monitoring.⁷³

Other London councils with far worse performance records than Lambeth's appear to have escaped monitoring. These include **Bromley** (only 64% of requests answered on time in 2017/18), **Lewisham** (61%) and **Hounslow** (60%).

Three quarters of all London councils - and no doubt innumerable other authorities as well - are failing to meet the IC's trigger for monitoring, of answering at least 90% of requests on time.

Yet at the time of writing, the ICO appeared to have all but abandoned formal monitoring. In 2010, 33 authorities across the England, Wales and Northern Ireland had been monitored. But only two authorities were monitored in each of 2016 and 2017 and none appear to have been monitored in 2018.

This may partly be the result of the ICO having focussed heavily on data protection issues over recent years, which regulation of FOI has received far less attention, an imbalance which urgently needs to be addressed.

The IC's annual report for 2017/18 stated that it had:

*'engaged with a number of public authorities about their handling of responses to freedom of information requests. Following this, progress has been made on the timeliness of those bodies' responses.*⁷⁴

The ICO has not named these bodies but the move from publicly announced monitoring to private discussions with unnamed authorities is not encouraging. It makes it difficult to judge the extent and effectiveness of the ICO's efforts and removes a source of public pressure for improvement.

The absence of monitoring, coupled with the IC's reluctance to issue Enforcement Notices, suggests that, apart from the occasional Decision Notice, there are few practical repercussions for authorities which consistently fail to meet FOI time limits.

⁷³ London Borough of Lambeth, Corporate Committee on 21 March 2018, Complaints - 6-monthly update, <https://modern.gov.lambeth.gov.uk/documents/s94086/Complaints%206-monthly%20update.pdf>.

⁷⁴ <https://ico.org.uk/media/about-the-ico/documents/2259463/annual-report-201718.pdf>.

Recommendation 1: authorities should report publicly every quarter on the number of requests not answered within the required time scale, setting out the causes of the delay and the steps being taken to address them.

Recommendation 2: the IC should make clear that authorities which fail to respond to or even acknowledge her emails asking them to deal promptly with an overdue request (as some London councils have done) will make themselves prime candidates for further enforcement action.

Recommendation 3: the IC should reinstate its lapsed 2010 enforcement policy, including the monitoring of underperforming authorities, to ensure that authorities answer at least 90% of requests on time. It should demonstrate a readiness to issue Enforcement Notices where persistent delays continue.

Publication of FOI statistics

Some of the FOI statistics presented in this report were found in publicly available committee papers or published datasets. However, some councils publish no statistics at all and we had to make FOI requests to obtain them. In some cases we had to wait many months for the replies, only receiving them after the IC's intervention.

Figure 4 shows that, as of December 2018:

- **Nearly a third** of London councils (11/34) published **no FOI statistics of any kind**.⁷⁵
- **Most** London councils (22/34) **published the percentage of requests they answered within the statutory time limit** but 6 of these published no other FOI figures.
- **Most** of the authorities (9/12) which **don't publish their timeliness figures are in the bottom half** of the performance table.
- **30 of the 34** councils **failed to reveal the numbers of requests they answered or refused**.⁷⁶
- Only two councils (**Barnet** and **City of London**) said **how long they take to answer those requests not answered on time** - without this people don't know whether delays are modest or run on for multiple months.

⁷⁵ These are the councils at the bottom of Figure 4 with a red dot in every column.

⁷⁶ The only councils that say how many requests they answer and how many they refuse are Barnet, City of London, Greater London Authority and Haringey. See Column 3 in Figure 4.

- **Half** of London councils (17/34) **failed to publish the number of FOI requests** they received.
- Only **4** councils (**Barnet, City of London, Haringey** and **Tower Hamlets**) said **how long their internal reviews take**.
- **Three quarters** of the councils **don't state how many complaints to the ICO** have been made about them or the outcomes.
- In some cases there is a **significant delay** before statistics appear, resulting in them being out of date by the time they are published.⁷⁷

By comparison, FOI statistics for all central government bodies are published quarterly, and more detailed figures annually, allowing under-performers to be identified.⁷⁸ Government guidance issued in 2009, with the support of the Local Government Association, encouraged all public authorities, including councils, to do the same.⁷⁹

- Only two authorities, **City of London** and **Haringey** published statistics on all the key issues.
- The **City of London** went furthest and was the only London council to publish the same range of statistics as is published for central government bodies. The council has itself observed that: *'it is surprisingly difficult to find compliance information for any other authorities.'*⁸⁰

The fact that some London councils publish few or no FOI statistics makes it harder for requesters and the IC to recognise consistently underperforming authorities, shielding them from pressure to improve. The routine publication of statistics is an essential prerequisite for any concerted attempt to deal with delays. This problem is unlikely to be restricted to London councils.

Even where statistics are published, they can be hard to find. They often appear in reports to the committee that oversees FOI, which varies from council to council and may be the Audit and Risk Committee, Public Accounts and Audit Committee, Standards Committee, the Corporate Committee, Corporate Finance and Performance Scrutiny Panel or the Residents Committee. Some councils include FOI statistics in corporate performance reports along with other types of performance data. Others include them in their Annual Governance Statement published with their annual accounts.

It would be logical for councils to provide links to their performance statistics on their FOI or open data webpages. In fact, only **Barnet**,⁸¹ **City of London**,⁸² **Greater London Authority**,⁸³ **Harrow**⁸⁴ and **Haringey**⁸⁵ do so.

⁷⁷ For example, Barking & Dagenham's statistics for 2017/18 were published in an annual report nine and a half months after the end of the financial year.
<https://modgov.lbbd.gov.uk/internet/documents/s128117/Report.pdf>.

⁷⁸ <https://www.gov.uk/government/collections/government-foi-statistics>

⁷⁹ Ministry of Justice, Summary guidance on publishing Freedom of Information data, Ministry of Justice, 30 July 2009,
<https://webarchive.nationalarchives.gov.uk/20091009075719/http://www.justice.gov.uk/guidance/foi-guidance-local-authorities.htm>.

⁸⁰ City of London Corporation, Freedom of Information / Environmental Information Regulations 2015 Annual Report to Summit Group.

⁸¹ <https://www.barnet.gov.uk/citizen-home/council-and-democracy/data-protection-and-freedom-of-information/freedom-of-information-act.html>

⁸² <https://www.cityoflondon.gov.uk/about-the-city/access-to-information/Pages/freedom-of-information.aspx>

⁸³ <https://www.london.gov.uk/about-us/governance-and-spending/sharing-our-information/freedom-information>

⁸⁴ https://www.harrow.gov.uk/info/200031/data_protection_and_freedom_of_information_foi/1032/council_wide_information_datasets

⁸⁵ <https://www.haringey.gov.uk/contact/information-requests/freedom-information-foi>

	REQUESTS			INTERNAL REVIEWS			ICO COMPLAINTS	
	1	2	3	4	5	6	7	8
Authority	Timeliness	Number	Outcome	Timeliness	Number	Outcome	Number	Outcome
City of London	●	●	●	●	●	●	●	●
Haringey	●	●	●	●	●	●	●	●
GLA	●	●	●	●	●	●	●	●
Tower Hamlets	●	●	●	●	●	●	●	●
Barnet	●	●	●	●	●	●	●	●
Greenwich	●	●	●	●	●	●	●	●
Ealing	●	●	●	●	●	●	●	●
Lambeth	●	●	●	●	●	●	●	●
Enfield	●	●	●	●	●	●	●	●
Barking & Dagenham	●	●	●	●	●	●	●	●
Camden	●	●	●	●	●	●	●	●
Harrow	●	●	●	●	●	●	●	●
Newham	●	●	●	●	●	●	●	●
Redbridge	●	●	●	●	●	●	●	●
Sutton	●	●	●	●	●	●	●	●
Kensington & Chelsea	●	●	●	●	●	●	●	●
Bexley	●	●	●	●	●	●	●	●
Brent	●	●	●	●	●	●	●	●
Croydon	●	●	●	●	●	●	●	●
Hounslow	●	●	●	●	●	●	●	●
Merton	●	●	●	●	●	●	●	●
Richmond	●	●	●	●	●	●	●	●
Wandsworth	●	●	●	●	●	●	●	●
Bromley	●	●	●	●	●	●	●	●
Hackney	●	●	●	●	●	●	●	●
Hammersmith & Fulham	●	●	●	●	●	●	●	●
Havering	●	●	●	●	●	●	●	●
Hillingdon	●	●	●	●	●	●	●	●
Islington	●	●	●	●	●	●	●	●
Kingston	●	●	●	●	●	●	●	●
Lewisham	●	●	●	●	●	●	●	●
Southwark	●	●	●	●	●	●	●	●
Waltham Forest	●	●	●	●	●	●	●	●
Westminster	●	●	●	●	●	●	●	●

Figure 4: publication of FOI statistics

Column 1: Timeliness statistics: regularly published (green), occasionally (yellow), not published (red)
 Column 2: No. of requests received: published (green), not published (red)
 Column 3: Outcome of FOI requests (e.g. answered/refused) published (green), not published (red)
 Column 4: Timeliness of completing internal reviews: published (green), not published (red)
 Column 5: No. of internal reviews carried out: published (green), not published (red)
 Column 6: Outcome of internal reviews: published (green), not published (red)
 Column 7: No. of complaints to ICO: published (green), not published (red)
 Column 8: Outcome of complaints to ICO: published (green), not published (red)

A further problem is that different councils' statistics are compiled on different bases, making direct comparisons difficult. Some consider a request to have been dealt with 'on time' only if answered within 20 working days, others also count those answered within a 'permitted extension', sometimes without making clear that they are doing so.

The statistics for central government bodies are published together in a standardised form that avoids this problem.⁸⁶ So are Scottish public authorities' statistics, which the Scottish Information Commissioner publishes quarterly in a format that allows performance to be compared and underperformers to be readily identified.⁸⁷

Some councils' statistics for the same period appear to change:

- **Barking & Dagenham's** figures supplied to us showed that it had answered **82%** of requests within 20 working days in 2017/18, but a subsequent report on its website said it had answered **93%** in 20 working days during that period.⁸⁸ On querying this the council told us the latter figure was correct.
- **Croydon** supplied figures to us showing that it had answered **69%** of requests in 20 working days in 2017/18. However, an earlier report to Cabinet, published on its website, stated that it answered only **60.8%** of requests within 20 working days in that year.⁸⁹ The council explained such problems may be caused by departments answering requests on time but not notifying the FOI team of this until much later. Belated recognition that these requests had been dealt with on time may improve the reported figure.

In July 2018, the government published a revised statutory code of practice under section 45 of the FOI Act.⁹⁰ This states that all public authorities employing more than 100 full time equivalent staff should as a matter of best practice publish quarterly statistics on their FOI performance. The figures which the code says should be included are shown in *Figure 5*.

Recommendation 4: authorities should publish quarterly statistics on their FOI performance in accordance with the statutory guidance in the July 2018 Freedom of Information code of practice.

They should also publish (a) the actual time taken to respond to requests not answered within 20 working days, (b) the number of internal reviews carried out, the time taken to deal with them and their outcomes and (c) the number of complaints to the IC and tribunal appeals, with their outcomes.

⁸⁶ <https://www.gov.uk/government/collections/government-foi-statistics>

⁸⁷ <http://www.itspublicknowledge.info/ScottishPublicAuthorities/StatisticsCollection.aspx>

⁸⁸ London Borough of Barking & Dagenham, Audit and Standards Committee on 16 January 2019, Information Governance Annual Report, <https://modgov.lbbd.gov.uk/internet/documents/s128117/Report.pdf>.

⁸⁹ London Borough of Croydon, Cabinet meeting on 11 June 2018, Appendix 1 – Corporate Plan 2017-18 performance,

<https://democracy.croydon.gov.uk/documents/s7928/Appendix%201%20-%20Corporate%20plan%20AFC%202017-18%20performance.pdf>.

⁹⁰ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>.

Recommendation 5: authorities should link to their published FOI statistics and performance reports from the FOI page of their website.

Recommendation 6: the IC should follow the example of the Scottish Information Commissioner and obtain and publish a compilation of all authorities' compliance statistics. The use of online tools for the submission of statistics should allow this exercise to be automated.

8.5 Public authorities with over 100 Full Time Equivalent (FTE) employees should, as a matter of best practice, publish details of their performance on handling requests for information under the Act. The information should include:

- The number of requests received during the period;

The number of the received requests that have not yet been processed (you may also wish to show how many of these outstanding requests have extended deadlines or a stopped clock, e.g. because a fee notice has been issued);

The number of the received requests that were processed in full (including numbers for those that were met within the statutory deadline, those where the deadline was extended and those where the processing took longer than the statutory deadline);

The number of requests where the information was granted in full;

The number of requests where the information was refused in full (you may wish to separately identify those where this was because the information was not held);

- The number of requests where the information was granted in part and refused in part;

The number of requests received that have been referred for internal review (this needs only reporting annually).

8.6 It is for individual public authorities to decide whether they wish to publish more detailed information than that set out above (they may, for example, wish to show a breakdown of the exemptions they have used for refusing requests or to show a breakdown of the outcomes for their internal reviews).

Figure 5. Government guidance on the publication of FOI statistics. Extract from the Freedom of Information code of practice, published by the Secretary of State under section 45 of the FOI Act, July 2018.

Assisting requesters

The FOI Act requires public authorities to provide advice and assistance to people who make, or propose to make, requests for information.⁹¹ This is a crucial provision. If the public don't understand how to use the Act, the right of access may be of little benefit.

Contact details

All London councils' websites provide basic guidance on making requests. Typically, this explains what information can be sought, how a request can be made and by when the authority should respond.

But some make it difficult for requesters to contact them for assistance:

- Four councils (**Bromley, Enfield, Haringey** and **Redbridge**) do not publish an email address to which requests for information or advice can be sent. Instead, they provide a web form through which FOI requests can be made.
- More than half the councils (**19/34**) do not provide a telephone number for an FOI contact that requesters can call for assistance.⁹²

The IC's guidance recommends that such details be provided.⁹³ One of the IC's decision notices describes the difficulties faced by a sight impaired requester with no internet access who could not read the response to his request because, contrary to a prior agreement, it had not been set out in large type. In the absence of a contact phone number he had no easy way of contacting the authority to let it know of his difficulties.⁹⁴

A number of councils provide on-line request forms on their websites, but sometimes no other means of contacting their FOI team. **Enfield** encourages requests to be made via a web form but does not provide an FOI contact email or phone number, although its FOI Policy acknowledges '*the legislation does not oblige the requestor to submit the request on-line and the request is acceptable by post by email or fax*'.

While online request forms can be convenient for authorities, they may be less useful for requesters. If the system does not automatically send them a copy of their request they may have no precise record of its wording or date - essential if they need to chase the authority or challenge a refusal.⁹⁵

Appeal rights

The information provided to the public about appeal rights also varies:

- Only 4 out of 34 councils publish their target times for dealing with complaints on their web site.
- A quarter of councils (9/34) do not publish details of how to complain about a refusal on their website (though most provided this information when responding to our FOI requests).

⁹¹ FOI Act section 16. A similar duty is found in regulation 9(1) of the EIR.

⁹² Those not providing a phone number were: Barking & Dagenham, Barnet, Bexley, Brent, Bromley, Camden, Croydon, Enfield, Greater London Authority, Haringey, Harrow, Havering, Hounslow, Islington, Kensington & Chelsea, Kingston, Newham, Redbridge and Waltham Forest.

⁹³ The IC says authorities should proactively publish 'a contact address (including an email address where possible); a telephone number; ideally a named individual to help applicants direct their requests for information or assistance.' 'Duty to provide advice and assistance (section 16)', Version 1.1, 20160623, <https://ico.org.uk/media/for-organisations/documents/1624140/duty-to-provide-advice-and-assistance-foia-section-16.pdf>.

⁹⁴ Decision Notice FS50654647, Cabinet Office, 23 March 2017.

⁹⁵ See Decision Notice FS50738437 of 18 May 2018, London Borough of Hackney, which refers to a request made in this way, as a result of which 'the complainant does not have an original copy of the request'. See also Decision Notice FS50775818 of 19 September 2018, London Borough of Haringey, which states 'As the request was submitted via an online portal he [the requester] does not have a copy of the precise request which was submitted'.

Requesters who are dissatisfied with an authority's response to their request are normally expected to ask it to reconsider by carrying out an 'internal review', and not complain to the IC until this has been done (unless the complaint is about delays).⁹⁶ The IC rejected over a third (159/429) of all complaints against London councils in 2016-17 because the requester had not followed this process.⁹⁷ It would be helpful if authorities highlighted their internal review procedures on their websites.

Recommendation 7: authorities should ensure that online request forms automatically send the requester an acknowledgement that includes the text of the request and its date of submission.

Recommendation 8: authorities should publish a phone number and email address to which requests for information and assistance can be made.

Recommendation 9: authorities should (a) explain the FOI complaints process on their websites, making it clear that the right of appeal to the IC is normally only available once internal review has been completed (unless the complaint is about a significant delay) and (b) state their target time for completing internal review.

Advice where requests are refused on cost grounds

Requests under the FOI Act can be refused if the estimated costs of responding exceed certain limits.⁹⁸ Where an authority refuses a request on cost grounds it must provide reasonable advice and assistance to help the applicant submit a reformulated request that *can* be answered within the limit, where this is feasible. It should, for example, explain what information *could* be provided within that limit or suggest how the request might be narrowed to reduce the cost. If it is not able to provide any information at all within the limit, it should say so.⁹⁹

The IC's decision notices provide examples of London councils that have satisfied this requirement:

⁹⁶ The IC has made clear that internal review is not necessary where the complaint is about delays. Decision Notice FS50587343 of 30 August 2016 dealt with a case where the requester had asked the Cabinet Office to carry out an internal review of its failure to respond to a request made six weeks earlier. The IC wrote: *'The Commissioner would not recommend complainants do this. She would encourage complainants to first seek informal resolution of the delay with the public authority (as the complainant did here). If this is unsuccessful, they should then report any protracted delays in response directly to her.'*

⁹⁷ Data extracted from ICO complaints and concerns datasets for the period April 2016 to March 2017, available from <https://ico.org.uk/about-the-ico/our-information/complaints-and-concerns-data-sets/>.

⁹⁸ FOI requests to councils and most other authorities can be refused if the estimated cost of establishing whether the information is held and if so locating, retrieving and extracting it would exceed £450. Officials' time is costed at a standard £25/hour, so requests can be refused where these likely would exceed 18 hours. For government departments, Parliament and the Welsh and Northern Ireland assemblies the figure is £600, corresponding to 24 hours. A different approach applies under the EIR: requests can be refused if the costs would make responding 'manifestly unreasonable'.

⁹⁹ ICO 'Requests where the cost of compliance exceeds the appropriate limit', Version: 1.2, 20150909, paragraph 59, https://ico.org.uk/media/1199/costs_of_compliance_exceeds_appropriate_limit.pdf.

- **Hammersmith & Fulham** refused a request about the sale of a council property arguing that one of the necessary searches would require it to examine over 4,500 emails, exceeding the cost limit. The council suggested that if the request was limited to any dedicated file on the sale held by the specific department responsible, it might be located within the cost limit. The IC found that this was reasonable advice and assistance.¹⁰⁰
- In another case **Hammersmith & Fulham** was asked for the number of requests to it for compensation for damage to vehicles and the number where legal action had been taken, with the outcomes in each case. It said that this would involve examining 57,000 enquiries over 10 years, substantially exceeding the cost limit. It advised the requester to narrow his request taking into account that such cases would have been handled by a number of different identified departments. The IC considered the explanation helpful, but said a request revised on these lines would still be liable to exceed the cost limit. The council should have indicated what information *could* be supplied within the limit. The requester later proposed to restrict his request just to cases involving legal action but the council said this too would exceed the cost limit. But it added that if this request was limited to those received during a *single year* it would be able to respond. The IC found this final suggestion constituted reasonable advice and assistance.¹⁰¹
- **Brent** was asked for 12 sets of figures about the handling of all FOI requests between 2005 and 2014. Some could only be obtained by separately examining each of 6,500 FOI replies, which would exceed the cost limit. However, the IC found that the council's response satisfied the duty to advise and assist as *'Where the Council believed that it did not hold information, it provided the complainant with an indication as to what similar information it did hold that could be provided. Where the Council believed that a response to a particular question would be likely to exceed the appropriate limit, it provided an indication of what information it believed could be provided within the appropriate limit.'*¹⁰²

Sometimes councils' advice and assistance has been found to fall short:

- **Lambeth** was asked how many of its employees had declared membership of organisations *'such as the Freemasons'*. The council said the information could be found in Declaration of Interest forms which were not held centrally but kept by line managers in a variety of different files. Locating them and extracting the information for all staff would exceed the cost limit. The council had advised the applicant to reduce the scope of his request without suggesting how. It later told the IC that it could provide the information for *'the top two management tiers'*. The IC did not accept that this was an adequate response, estimating that the council could provide details for some 2,000 employees within the cost limit. It ordered the council to assist the applicant in obtaining *'as much information of interest as is reasonable'*.¹⁰³

¹⁰⁰ Decision Notice FS50519215, London Borough of Hammersmith and Fulham, 31 March 2014.

¹⁰¹ Decision Notice, FS50584989, London Borough of Hammersmith and Fulham 13 January 2016.

¹⁰² Decision Notice FS50542440, London Borough of Brent, 16 December 2014.

¹⁰³ Decision Notice FS50558777, London Borough of Lambeth, 17 March 2015.

- **Hackney** was asked for any internal discussion over a 3 year period about the possibility of using certain parkland as the site for a temporary school. The council refused the request as ‘manifestly unreasonable’ under the EIR, estimating that the search would cost over £6,000. Both the IC and, on appeal, the First-tier Tribunal agreed. However, the tribunal was critical of the council’s failure to assist the requester. The official who handled the request had spoken to his predecessor about it but had not asked where any relevant information might be found. The sample search used to estimate the costs had been inadequate. The council’s searches had found a large number of documents which it said would each have to be read. It had not acknowledged that its document management system had advanced search functions which could have excluded ‘masses of irrelevant material’. The tribunal was left with ‘the clear impression that the approach adopted was that the Council had no obligation to either use the advanced search facility itself to reduce the number of “hits”, to obtain guidance from colleagues, or to give the Appellant sufficient information about the available tools to enable him to consider how the Request might be reduced in scope.’¹⁰⁴

Recommendation 10: where the volume of ‘hits’ turned up by an electronic search is too great to be examined without exceeding the FOI cost limit, authorities should consider whether the search is catching large amounts of irrelevant material. If so, they should consider whether that material can be excluded by adjusting the search terms (e.g. find documents containing the term “ABC” but not the term “XYZ”) and carry out that search if it allows the request to be answered within the cost limit. If that search runs the risk of excluding some relevant documents, the implications should be explained to the applicant who should be given the option of asking for it to be done.¹⁰⁵

FOI disclosure logs

A particularly valuable FOI resource is a ‘disclosure log’ of the FOI requests the authority has received and any information disclosed in response. These help to:

- Ensure **the public generally** benefits from information released to individual requesters.
- **Reduce the authority’s workload** - requesters who find the information online will not need to request it.
- **Encourage informed use of the Act** by illustrating what can be obtained and what is likely to be exempt. This may also help reduce unnecessary appeals.

¹⁰⁴ First-tier Tribunal, (General Regulatory Chamber) Information Rights, *Nick Rosen & Information Commissioner & London Borough of Hackney*, EA/2017/0047, decision of 15 August 2018.

¹⁰⁵ The Information Commissioner and tribunal are increasingly examining whether authorities have taken steps to exclude clearly irrelevant material from their searches. The Upper Tribunal has expressly encouraged them to ‘take a sceptical approach and require the public authority to provide persuasive evidence of how they undertook the [costs] estimate, with follow-up questions if necessary’. *Kirkham v Information Commissioner*, [2018] UKUT 126, paragraph 34.

- Demonstrate that the authority is **acting openly** which the IC says ‘helps build public trust in your organisation’.¹⁰⁶
- **Promote consistency**, and aid corporate memory, by discouraging authorities from withholding information they have previously disclosed.

Figure 6 shows that:

- Some councils publish comprehensive disclosure logs. **Barking & Dagenham**,¹⁰⁷ **Barnet**,¹⁰⁸ **Bexley**,¹⁰⁹ **Camden**,¹¹⁰ **Hackney**,¹¹¹ **Hammersmith & Fulham**,¹¹² **Haringey**,¹¹³ **Lambeth**¹¹⁴ and **Tower Hamlet**¹¹⁵ have disclosure logs which provide (i) all or most of the requests themselves (ii) the letters of response (iii) any disclosed information (iv) are searchable by date and keyword, and (v) are kept up to date.¹¹⁶ Most of these councils use a software package called ‘iCasework’ which provides an option to automatically publish any selected FOI responses on a disclosure log.
- However, almost two thirds of London councils (20/34) **do not publish any of the FOI disclosures they have made** – despite the potential benefits.
- Some have disclosure logs which are not kept up to date. As of December 2018 **Croydon** had not added anything to its disclosure log for 17 months, **Richmond** for two years and nine months and **Newham** for three years and nine months. **Brent**¹¹⁷ and **Redbridge**¹¹⁸ were committed to introducing disclosure logs but had not done so at the time of writing. A **Bromley** working group recommended the introduction of a disclosure log in 2011 to ‘*reduce demand on officer time*’ but that has not been done.¹¹⁹

¹⁰⁶ IC ‘Taking a Positive Approach to Information Rights’, v.1.1, 20121212, https://ico.org.uk/media/for-organisations/documents/1568/information_rights_top_tips.pdf.

¹⁰⁷ <https://www.lbbd.gov.uk/freedom-of-information>.

¹⁰⁸ <https://www.barnet.gov.uk/citizen-home/foi-requests.html>.

¹⁰⁹ <https://www.bexley.gov.uk/foidisclosurelog>.

¹¹⁰ <https://www.camden.gov.uk/ccm/navigation/council-and-democracy/publications-and-finances/freedom-of-information/>.

¹¹¹ <https://foi.infreemation.co.uk/hackney/>.

¹¹² <https://www.apps12.lbhf.gov.uk/cus/servlet/ep.appSearch?public=true&byCaseType=false&byKeyword=true&max=20&drilldown=false&title=Disclosure%20log>.

¹¹³ <https://www.haringey.gov.uk/contact/information-requests/freedom-information/common-information-requests#search>.

¹¹⁴ <https://www.lambeth.gov.uk/elections-and-council/foi/find-answers-to-freedom-of-information-foi-requests>.

¹¹⁵ <http://www.towerhamletsfoi.org.uk/display.asp>.

¹¹⁶ On 15/8/2018, seven of the eight disclosure logs referred to in this paragraph had entries added in the last week. The last entry on Haringey’s disclosure log had been added approximately 10 weeks earlier.

¹¹⁷ Brent’s Corporate Performance Scorecard report from December 2017 states: ‘*Work has proceeded on the setting up of a Disclosure Log and the publishing of certain Business Rates data. These should see a further improvement in time, as there should be less work for some of the services as those seeking information will be referred to where it is already published*’ (Appendix A, pg.24).

¹¹⁸ Redbridge says it plans to expand the list of FOI requests on its DataShare site to include some of the responses. See <https://www.redbridge.gov.uk/have-your-say/freedom-of-information/disclosure-log/>.

¹¹⁹ A Report of the New Technology Working Group of the Executive and Resources Policy Development and Scrutiny Committee in May 2011 stated: ‘*Many public bodies now publish all FOI requests online in a disclosure log. Once information is publicly available an FOI request can be rejected on the basis that the information is already easily available and the person requesting the information can be directed towards the relevant page. The Group felt that this simple process could save officers a significant amount of time.*’

<https://cds.bromley.gov.uk/documents/s8214/ER%20PDS%20190511%20New%20Technology%20Working%20Group%20Report.pdf>.

- A few councils publish lists of the requests they have received without publishing any of the disclosed information. **City of London** and **Redbridge** list what has been asked for and say whether it was disclosed. Although requesters could not download the disclosed information directly, they could ask the council for it. **Merton** and **Wandsworth** have published lists of requests *without* indicating if they had been complied with or not. Anyone asking for previously requested information might wait for an answer only to be told that the previous request had been refused – a waste of the requester’s and council’s time. **Wandsworth’s** list of requests (which it describes a ‘disclosure log’) has not been updated for some time. The council plans to resume publishing it and hopes that this together with a new case management system will help reduce its volume of requests.¹²⁰ That would only be feasible if the council begin publishing the disclosed information itself.

One of our requests illustrated how a disclosure log might help public authorities. When **Richmond** supplied its FOI statistics to us in 2016 it withheld the precise number of requests refused as vexatious in certain months, maintaining that where these numbers were very low they could help identify the requesters. In certain conditions, disclosing the actual number of individuals in a very small group could, if combined with other available information, point to an individual’s identity - but we could not see how this could occur in this case.¹²¹ We asked Richmond to reconsider and it accepted our argument, disclosing the previously withheld figures. But when we made a follow-up request in 2018 for more recent statistics, it again refused to disclose the equivalent numbers citing the same argument. Authorities need some way of preserving their corporate memory. A disclosure log may help them do so.

Recommendation 11: authorities should publish and keep up to date a disclosure log. This should (i) describe the requests they have received, and (ii) the outcomes and (iii) include any released information.

¹²⁰ Wandsworth Borough Council, Finance and Corporate Overview and Scrutiny Committee on 22nd November 2018, paper no. 18-430.

¹²¹ For example, if the answer to an FOI request about the number of staff dismissed for misconduct during the year is two and it is known that only two people had left during the year, the disclosure would reveal that the two people who had left had been dismissed for misconduct. What makes this ‘personal data’ is that the anonymous statistic (2) can be combined with other information (who had left during the year) which is known to some people, and point to the identity of those involved. In the case of the small number of requests refused as vexatious it was difficult to see what other available information could identify anyone even if combined with the disclosed figure.

Authority	[1] FOI requests published	[2] Up to date	[3] Responses published	[4] Searchable
Barking & Dagenham	●	●	●	●
Barnet	●	●	●	●
Bexley	●	●	●	●
Camden	●	●	●	●
Hackney	●	●	●	●
Hammersmith & Fulham	●	●	●	●
Haringey	●	●	●	●
Lambeth	●	●	●	●
Tower Hamlets	●	●	●	●
GLA	●	●	●	●
Harrow	●	●	●	●
Croydon	●	●	●	●
Newham	●	●	●	●
Richmond	●	●	●	●
City of London	●	●	●	●
Merton	●	●	●	●
Redbridge	●	●	●	●
Wandsworth	●	●	●	●
Brent	●	●	●	●
Bromley	●	●	●	●
Ealing	●	●	●	●
Enfield	●	●	●	●
Greenwich	●	●	●	●
Havering	●	●	●	●
Hillingdon	●	●	●	●
Hounslow	●	●	●	●
Islington	●	●	●	●
Kensington & Chelsea	●	●	●	●
Kingston	●	●	●	●
Lewisham	●	●	●	●
Southwark	●	●	●	●
Sutton	●	●	●	●
Waltham Forest	●	●	●	●
Westminster	●	●	●	●

Figure 6: FOI disclosure logs

Column 1: Are the FOI requests themselves published? green = 50% or more published; yellow = less than 50% published (applies to Croydon, GLA & Harrow); or nothing added for more than 12 months as of July 2018 (Croydon, Newham, Redbridge, Richmond & Wandsworth); red = none published.

Column 2: Is the disclosure log up to date? green = updated within last 6 months as of July 2018; yellow = updated within 6-12 months; red = nothing added for more than 12 months (or no disclosure log).

Column 3: Are the responses to requests published? green = 50% or more published; yellow = less than 50% published; red = none published.

Column 4: Is the disclosure log searchable? green = searchable by text and date; yellow = searchable by predefined category only; red = not searchable or no disclosure log.

Internal guidance

The IC expects local authorities to pro-actively publish their policies and internal guidance, which would include those on FOI.¹²² Although most London councils have these only a few appear to publish them.

- **Barnet** publishes a detailed toolkit for staff¹²³ as well as its FOI policy¹²⁴
- **Haringey** publish its FOI/EIR procedures¹²⁵
- Other councils publishing their *policies* include **Barking & Dagenham**,¹²⁶ **Islington**,¹²⁷ and **Westminster**¹²⁸
- **Bexley's** staff guidance was available online at the time we began our research in 2016 but has since been removed.

Our 2016 FOI request to councils asked them for any *unpublished* internal guidance. Nearly all London councils provided at least some, except for:

- **Brent** which told us its guidance had been withdrawn and was being reviewed.
- **Hillingdon** which said its guidance had been produced in 2006 and had not been updated. Our request had asked for 'current' guidance - which would have included any out of date guidance still in use.
- **Westminster** told us it had no discrete guidance as such but provided guidance to staff via online training and other means.
- **Newham** supplied no guidance but told us their FOI staff had all received training.
- **Ealing** supplied no guidance and did not reply to our follow-up question asking them to confirm that none existed.

Positive commitments

In general, London councils' policies and guidance advised staff to adopt a pro-disclosure standpoint. Examples included:

¹²² ICO 'Definition document for principal local authorities', Information Commissioner's Office, Version 3.1, 20130901, https://ico.org.uk/media/1262/definition_document_local_authorities.pdf.

¹²³ London Borough of Barnet, 'FOI toolkit' available from <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/information-management-policies.html>.

¹²⁴ London Borough of Barnet, 'EIR and FOI policy' available from <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/information-management-policies.html>.

¹²⁵ London Borough of Haringey, 'Freedom of Information (FOI) and Environmental Information Regulations (EIR) Procedure', https://www.haringey.gov.uk/sites/haringeygovuk/files/foi_eir_procedure-v13.pdf.

¹²⁶ London Borough of Barking & Dagenham, 'Freedom of Information Policy', https://www.lbbd.gov.uk/sites/default/files/attachments/Freedom%20of%20Information%20Policy_0.pdf.

¹²⁷ London Borough of Islington, 'Access to Information Policy', available from <https://www.islington.gov.uk/about-the-council/information-governance/freedom-of-information>.

¹²⁸ 'Freedom of Information Policy for Westminster City Council', version 1.5. http://www3.westminster.gov.uk/docstores/publications_store/WCC%20FOI%20Policy%20Approved%20April%202011.docx.

- **Enfield:** *'LBE is committed to openness about the way in which it operates and makes decisions and there will be a presumption in favour of the disclosure of information where ever possible...Handling requests for information is an important front line service and is everyone's responsibility. All employees will be expected to play their part.'*¹²⁹
- **Islington:** *'The objectives of this policy are to: a) Promote greater openness and increased transparency of decision-making; b) Build the trust and confidence of the public and stakeholders; and c) Provide clarity on the way in which the council will meet its duties under access to information legislations, guidance and best practice.'*¹³⁰
- **Lambeth:** *'The default position is to disclose information unless there is a good reason not to. Our role is to challenge, promote disclosure and make sure that exemptions and exceptions are properly and robustly applied. That is not to say that we should automatically take the opposing view. But where an exemption or exception is proposed we need to make sure that it is being applied correctly in terms of the FOI or EIR.'*¹³¹

Inaccuracies

Some councils' guidance was detailed and knowledgeable showing considerable awareness of the IC's guidance and FOI case law.

However, in some instances the guidance, though generally correct, inaccurately described specific provisions in ways that might lead to requests being wrongly refused or unjustified charges being made.

Charges

Under the FOI Act, the only charges that requesters can normally face are for 'disbursements' such as photocopying, printing or postage.

- **Brent** says it charges *'£25 per hour for staff time if it is necessary for a member of staff to accompany somebody who wants to inspect records.'*¹³²

Such a charge would not be lawful. Regulations under the FOI Act expressly prevent any charge for staff time being made.¹³³ The EIR prohibit any charge for allowing a requester to inspect records.¹³⁴

The cost limit

Councils can refuse FOI requests if their estimated costs in answering would exceed £450. Only the cost of establishing whether the information is held and if so locating, retrieving and extracting it can count towards this limit:¹³⁵

¹²⁹ London Borough of Enfield, 'Freedom of Information Policy', version 1.3, 14 October 2013.

¹³⁰ London Borough of Islington, Access to Information Policy, version 4.0, August 2015.

¹³¹ London Borough of Lambeth, 'FOI Caseworker Guidance', version 4.23, updated September 2015.

¹³² <https://www.brent.gov.uk/your-council/transparency-in-brent/data-protection-and-freedom-of-information/freedom-of-information/?tab=fees>.

¹³³ Regulation 6(4) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

¹³⁴ Regulation 8(2)(b) of the EIR.

¹³⁵ Staff time is charged at a standard £25 an hour rate, so the £450 limit equates to 18 hours of staff time. This limit applies to all public authorities other than government departments, Parliament and the devolved assemblies, where the limit is £600 (24 hours staff time). A cost only applies to requests under the FOI Act, not to EIR requests.

- **Westminster** says that in calculating whether the cost limit would be reached it includes *'the time taken...to edit information, e.g. if exemptions apply to part of the information contained in a record.'*¹³⁶
- A template letter produced by **Waltham Forest** also suggests the cost of time spent blocking out exempt information is counted towards the cost limit.¹³⁷

In fact, the time spent editing out ('redacting') exempt information *cannot* be included when calculating whether the Act's cost limit would be reached.¹³⁸ If these councils' guidance was followed, some requests which should be answered would be wrongly refused on cost grounds.

- **Bexley's** guidance to staff says the costs that can be included when calculating whether the cost limit would be reached include the cost of *'printing, copying, scanning and postage of information'*.¹³⁹

These costs do not count towards the cost limit. These are costs which a requester can be asked to pay, a different matter.

Time limits

- **Waltham Forest's** procedures stated that: *'All requests received after 5pm on any given working day are logged as received on the next working day.'*¹⁴⁰

In fact, requests must be treated as received on the day they are *actually* received, with the day ending at midnight.¹⁴¹ Day 1 of the 20 working day period is the first working day after the day on which it was received. The council's approach would allow it *21 working days* to reply to requests received outside working hours. Thus, if a request is received at 6 pm on a Monday, the first of the 20 working days should be the Tuesday, but the council would consider it to be Wednesday. Several other London councils adopted a similar approach and added an extra day to the deadline for responding to our FOI request - and no doubt to others' as well.

- **Croydon's** website advises that *'School-related enquiries will be dealt with within 20 working school days'* instead of the usual 20 working days.¹⁴²

FOI requests to a local authority are *not* entitled to this extension, even if they relate to schools. The extension only applies to requests made *to a school itself* and allows extra time to deal with those made during or just before school holidays.¹⁴³

¹³⁶ Westminster City Council, 'FOI Charging Policy - Sept 2008', http://transact.westminster.gov.uk/publications/publications_detail.cfm?ID=3492.

¹³⁷ The letter explains 'Once this information is located, we would have to retrieve/extract the relevant information and in some cases, redact (block out) information which is not relevant, or which is exempt under the FOIA. Our estimate of the total time for compliance with your request is around [insert estimated time required to comply with the request].' London Borough of Waltham Forest, 'Freedom of Information Procedures', updated November 2014, Appendix 14 – Unable to comply with request as aggregation takes it over cost limit.

¹³⁸ This has been confirmed by the High Court in *Chief Constable of South Yorkshire Police & Information Commissioner*, [2011] EWHC 44 (Admin)

¹³⁹ 'Freedom of Information requests Procedures and staff guidance notes', Bexley Council, Version 1 July 2013, page 7.

¹⁴⁰ London Borough of Waltham Forest, 'Freedom of Information Procedures', updated November 2014.

¹⁴¹ The IC's guidance states: 'For the purposes of the Act, a 'working day' will end at midnight regardless of the opening hours of the authority. Therefore, any request which arrives before that time should be regarded as having been received that day.' 'Time for Compliance under the Freedom of Information Act (Section 10)', Version 1.1, 20150720, <https://ico.org.uk/media/1165/time-for-compliance-foia-guidance.pdf>.

¹⁴² The FOI advice on its website states: 'The council has 20 working days from receipt of the request to respond - either by providing the information requested or refusing the request. School-related enquiries will be dealt with within 20 working school days.' <https://www.croydon.gov.uk/democracy/data-protection-freedom-information/foiact/foi>.

¹⁴³ The Freedom of Information (Time for Compliance with Request) Regulations 2004.

- **Lambeth's** guidance on the EIR said: *'If needed, you should claim for an extension of time on the grounds that you need more time to consider the public interest test.'*¹⁴⁴

No such provision applies under the EIR. An extension to consider the public interest test is only permitted under the FOI Act.

- **Lambeth's** guidance on an EIR exception for information which an authority does not hold described an entirely unrelated FOI exemption for information intended for future publication.¹⁴⁵

Factual information

- **Bexley**¹⁴⁶ and **Sutton**,¹⁴⁷ both advised staff to only disclose *'factual'* information, with Sutton expressly advising against the release of *'commentary or opinion'*.

In fact, the right of access applies to *any* recorded information including recorded comments and opinions. The correct advice would be to say that there is no obligation to offer comments or opinions in response to an FOI request if these do not *already exist* in recorded form.

Exemptions

An FOI exemption may apply to information which an authority had *already decided* to publish before receiving the request.¹⁴⁸

- **Bexley's** guidance wrongly suggested that information could be withheld if the authority is merely *considering* the possibility of publishing it in future.¹⁴⁹
- **Hackney's** wrongly stated that the exemption applies to *'Information not yet earmarked for publication, but likely to be done at a future date'* (emphasis added)¹⁵⁰

If, at the time of a request, an authority is *considering* publishing the information but has not definitely decided to do so, this exemption cannot be used.¹⁵¹

Some of the Act's exemptions only apply if disclosure would 'prejudice' specified interests such as law enforcement or commercial interests.

- **City of London** states that a *'Prejudice Test does not apply'* to the FOI exemption for information likely to 'endanger' health and safety.¹⁵² In fact, the IC's guidance suggests that the terms 'endanger' and 'prejudice' are equivalent (though the tribunal has recently warned against treating them as identical).¹⁵³

¹⁴⁴ London Borough of Lambeth, 'FOI Caseworker Guidance', version 4.23, updated September 2015.

¹⁴⁵ London Borough of Lambeth, 'FOI Caseworker Guidance', version 4.23, updated September 2015.

¹⁴⁶ London Borough of Bexley, 'Freedom of Information requests Procedures and staff guidance notes', Version 1, July 2013.

¹⁴⁷ London Borough of Sutton intranet staff guidance

¹⁴⁸ This is just one element of the exemption (in section 22 of the Act) which also requires that it be *reasonable* for the authority to withhold it until the date of publication and that public interest balance favours withholding it till then.

¹⁴⁹ London Borough of Bexley, 'Freedom of Information requests Procedures and staff guidance notes', Version 1, July 2013.

¹⁵⁰ London Borough of Hackney, 'Guidance on Freedom of Information and Environmental Information Regulations requests', January 2015.

¹⁵¹ ICO 'Information intended for future publication and research information (sections 22 and 22A)', Version 1.1, 20170818,

<https://ico.org.uk/media/1172/information-intended-for-future-publication-and-research-information-sections-22-and-22a-foi.pdf>.

¹⁵² City of London guidance on FOI Exemptions.

¹⁵³ ICO, 'Health & Safety (section 38)', 20160527, Version: 1.0. The First-tier Tribunal has cautioned against treating 'endanger' and 'prejudice' as identical, arguing that the distinctive implications of the term 'endanger', particularly in relation to an individual's mental health, should be recognised. EA/2017/0087, Andrew Lownie & Information Commissioner & The National Archives & Foreign and Commonwealth Office, 12 July 2018.

- The EIR contain an exception for ‘internal communications’. **Redbridge** says this would protect, ‘information between the Environment Agency and the Council’.¹⁵⁴

This is incorrect: the provision only applies to communications *within* a public authority not to those *between* authorities.¹⁵⁵

- **Harrow’s** guidance incorrectly advises staff that requests can be refused ‘*Where the wording of the request is identical to a previous request and it is asking for the same information (i.e. information already provided or refused)*’ (emphasis added).¹⁵⁶

This is incorrect. The relevant provision only applies where the information has previously been *supplied* not where a previous request for it has been *refused*.¹⁵⁷

Recommendation 12: authorities should publish their FOI guidance to staff, linking to it from their FOI web page.

Recommendation 13: authorities should ensure that their guidance is accurate and is updated periodically in light of new case law and changes to the Information Commissioner’s guidance.

Special clearance procedures

The FOI Act is frequently described as ‘applicant blind’. Authorities must consider whether requested information can be made *public* not whether it should be disclosed to the particular *applicant*. With limited exceptions, the requester’s identity and purpose is irrelevant.¹⁵⁸

Some London councils require FOI responses on sensitive or complex issues to be signed off by the departmental director or other senior official responsible for the area of work. Many also involve their press office when responding to journalists’ requests:

¹⁵⁴ London Borough of Redbridge, ‘Environmental Information Regulations Policy’, Version 1.0, May 2013, page 7.

¹⁵⁵ The IC’s guidance says: ‘Essentially, an internal communication is a communication that stays within one public authority...Communications between other public authorities (eg between central government and a local authority, or between two local authorities) will not constitute internal communications.’ However, communications between different government departments are treated as internal as a result of regulation 12(8). ‘Internal communications (regulation 12(4)(e))’, Version 3, 20130319, https://ico.org.uk/media/for-organisations/documents/1634/eir_internal_communications.pdf.

¹⁵⁶ London Borough of Harrow, ‘Freedom of Information and Environmental Information Regulations Policy and Procedure’, Final Version 1.0, page 18.

¹⁵⁷ The IC’s guidance on this provision (section 14(2) of the FOI Act) says: ‘Section 14(2) may only be applied when...the authority has previously provided the information to the requester or confirmed that it is not held in response to the earlier FOIA request’. ‘Dealing with repeat requests (section 14(2))’, Version 1.2, 2015119, <https://ico.org.uk/media/for-organisations/documents/1195/dealing-with-repeat-requests.pdf>.

The exemption is subject to the Act’s public interest test and does not apply where a reasonable interval has passed since the previous request was complied with.

¹⁵⁸ One situation where the applicant’s identity may affect the outcome is where the request is potentially vexatious. In this case an authority is entitled to consider whether it forms part of a disproportionately burdensome pattern of requests from the same requester. The applicant’s identity will also be relevant where someone asks for their own personal information as such information is exempt under FOI but potentially available to that person under the Data Protection Act or GDPR. In addition, the FOI Act exemption for information which is reasonably accessible to the applicant takes account of the particular applicant’s actual circumstances.

- Internal guidance used by **Camden**,¹⁵⁹ **Hackney**,¹⁶⁰ **Haringey**,¹⁶¹ **Hammersmith & Fulham**,¹⁶² **Hounslow**,¹⁶³ **Lambeth**,¹⁶⁴ **Merton**¹⁶⁵ and **Tower Hamlets**¹⁶⁶ amongst others said that media requests should be copied to the press office. Some guidance also says that the press office must clear any response before release, though this may be implicit under other councils' procedures too.

Some councils included groups other than journalists in their special clearance procedures.

- **Barnet** specifies that not just press requests but those from '*bloggers and campaigners*' should also be sent to the Communications team, along with any other requests that '*may attract media attention*'.

Significantly, Barnet adds that:

*'The request should be dealt with as a standard request, with information gathered, a response drafted and any exemptions/exceptions applied **exactly the same** as for any other request.'*¹⁶⁷
(original emphasis)

Other councils throw the net over an even wider range of requesters. **Bromley's** draft guidance advised staff to treat requests from a wide variety of requesters as 'sensitive':

- '*A request may be deemed sensitive because of:*

Who it comes from e.g.

- *a journalist/news agency/media or political researcher;*
- *high profile campaign/pressure group like the Tax Payers Alliance, Big Brother Watch, or whatdotheyknow, as well as established local groups;*
- *or an individual known to the Council through frequent and sustained use of our feedback mechanisms including FOI, complaints, public questions at meetings, petitions, the website, etc*
- *The subject matter i.e. it is a hot topic locally/nationally e.g. members' expenses.*

*It is possible any response issued may find its way beyond the applicant into a wider arena and affect public perception. Consequently, responses to sensitive requests must be considered from a reputation management perspective, as well as ensuring we have met our statutory responsibilities.'*¹⁶⁸ (emphasis added)

¹⁵⁹ London Borough of Camden, 'Information in Camden', Version 3.0, 23 March 2015.

¹⁶⁰ London Borough of Hackney, 'Guidance on Freedom of Information and Environmental Information Regulations requests', January 2015.

¹⁶¹ London Borough of Haringey 'Freedom of Information (FOI) and Environmental Information Regulations (EIR) Procedure', version last updated February 2012, page 6.

¹⁶² London Borough of Hammersmith & Fulham, 'Request for Information – iCasework workflow', Version 1.1.

¹⁶³ London Borough of Hounslow, 'Freedom of Information and Environmental Information Policy', version 2.3, 25 March 2015, page 5.

¹⁶⁴ London Borough of Lambeth, 'FOI Caseworker Guidance', version 4.23, updated September 2015.

¹⁶⁵ Freedom of Information guidance on Merton Council intranet.

¹⁶⁶ London Borough of Tower Hamlets, 'Guidance for Handling Information Requests', version 1.2, April 2015.

¹⁶⁷ London Borough of Barnet, 'Freedom of Information Toolkit', V.2, May 2013, page 18.

¹⁶⁸ London Borough of Bromley, Draft Dealing With Sensitive FOI Requests, 20/01/12.

The council's template for handling sensitive requests suggests that a draft response should be circulated to the relevant chief officer for clearance alerting him or her to the sensitivity by a statement such as:

- 'Could you review and advise if you are agreeable for me to send out the spread sheet to the requester *who I suspect could be a journalist*' (emphasis added).¹⁶⁹

Bromley's reference to 'reputation management' is potentially troubling. Reputation management should not affect FOI decisions. It is possible that the impact of disclosure on a body's reputation could trigger an FOI exemption. For example, revealing unconfirmed suspicions about a supplier's conduct might engage the FOI Act exemption for prejudice to commercial interests (though the final decision would also have to reflect the public interest in disclosure). However, unless disclosure is likely to trigger an exemption, the protection of reputation should not be a factor in FOI decisions.

Harrow's guidance says:

- '*Any controversial requests or requests to do with councillors, political groups, or other requests, which may be politically sensitive, must be sent to the Director of Legal & Governance Services before the request can be progressed.*'¹⁷⁰

Another document supplied by the council advised staff to consider whether:

*'releasing (or withholding) information...could have wider implications...This will be especially important if there is a prospect that the response may draw criticism or cause embarrassment'.*¹⁷¹
(emphasis added)

The possibility of embarrassment or criticism, like concerns about reputation management, should not influence FOI decisions.

Lambeth's guidance advises caseworkers to prime the business area dealing with the request about any special handling circumstances they should be aware of. It also suggests that the caseworker may want to:

- '*Google the requestor to understand who is making the request, why and assess the likely impact to the Council (e.g. political, media, legal, commercial, personal data).*'¹⁷² (emphasis added)

This went further than any other London council in its concern with the requester's identity.

Waltham Forest's guidance refers to 'High Priority' requests, which it says:

- include media requests, those relating to '*controversial issues or campaigns (e.g. a EDL march)*', those that could lead to individuals being identified, those that are '*part of a series of requests*' and those relating '*high level strategies and plans*'. Responses to such requests must be sent to a Management Board member and the Deputy Head of Strategy & Communications for approval at least 5 days before the deadline for a response, with the deadline clearly specified in the subject line.

¹⁶⁹ London Borough of Bromley, FOI 10913, Standard Wording Templates.

¹⁷⁰ London Borough of Harrow, 'Freedom of Information and Environmental Information Regulations Policy and Procedure', Final Version 1.0, page 6

¹⁷¹ 'Guidance on the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 in relation to Planning and Building Control'.

Document supplied by London Borough of Harrow from its intranet guidance for staff use.

¹⁷² London Borough of Lambeth, FOI caseworker guidance v4.23, updated September 2015.

However, it describes the purpose of the exercise in more nuanced terms, which it says is to ensure that:

- *‘Responses are lawful and complete, including obtaining advice where appropriate;*
- *Where appropriate, responses provide additional information that sets “bare” requested information in context and avoids misinterpretation of information;*
- *There is coordination between services where a request covers a number of areas; and*
- *Notifies key services (e.g. Communications) and Management Board or members about the request in case of further requests or publication.’*

Enfield’s policy was the one that most explicitly respected the FOI principles. It stated:

- *‘If a contentious or novel request, which may be the subject of media interest, is received it should be referred immediately to the Press Office Manager...so that they are aware. The responsibility for dealing with the request remains with the service/s that possesses the information.*

*The Press Manager should also have sight of the final response before despatch for comment and advice. **The Press Manager will only be able to provide assistance on the phrasing of the response and cannot advise you on the actual content (ie the raw information). The substance of the response is determined solely by the request itself; the information that is actually held and any exemptions that may apply.*** (emphasis added)¹⁷³

Nothing in the Act prevents authorities providing additional explanation when disclosing information to journalists or anyone else. Equally, authorities are entitled to notify affected departments of disclosures on which they may be asked to comment.

However, some of guidance described here oversteps the mark by focusing on the requester rather than the request. This raises the question of whether the level of disclosure is improperly influenced by the requester’s identity, and whether these special clearance procedures cause extra delay to responses.

In Scotland, the issue has been investigated by the Scottish Information Commissioner (SIC) who has examined the special clearance procedures used in dealing with requests from the media, Members of the Scottish Parliament and political researchers.

The SIC reported in June 2018 that:

‘There was evidence that, in 2015/16...media requesters were significantly less likely to receive information, compared to other requesters.’

‘in 2016/17 the number of original decisions in journalists’ cases which were overturned or partially upheld on review was considerably higher than the norm’

*‘The proportion of late responses and failures to respond was considerably higher for journalists, particularly in 2015/16 and 2016/17.’*¹⁷⁴

The report attributed the extra delays faced by journalists to *‘the additional layer of clearance’* used in handling media requests which it concluded was *‘inconsistent with the applicant-blind principle of FOI legislation’*. It recommended that the Scottish Government:

¹⁷³ London Borough of Enfield, Freedom of Information Policy, 14.10.2013.

¹⁷⁴ Scottish Information Commissioner, Intervention Report - Scottish Government, 13 June 2018.

'ends its practice of treating journalists, MSPs and political researchers differently when processing requests for information because of who or what they are'

The report also found that these problems had greatly reduced by 2017/18, probably as a result of earlier SIC reports on the issue. However, the number of refusals overturned by the Scottish Government at internal review, was still somewhat higher for journalists than for others, suggesting that their requests were still more likely to be incorrectly refused t the outset than those of other requesters.

Anyone receiving information under FOI is entitled to publicise it and the means of doing so are now so widely accessible, that there is no reason for authorities to differentiate between journalists or campaigners and anyone else. The outcome should be the same whether the requester is a tireless activist or a reserved recluse. Decisions should depend on the likely effect of disclosure to the public not the requester's perceived readiness to publicise the material.

This study does not reveal whether special clearance procedures for media or others have led to the unjustified withholding of information. However, the focus of some guidance on the requester's identity raises this possibility.

Most of the above guidance stresses that any input from those asked to clear a draft disclosure must be given very quickly so that the statutory response period is not exceeded.

However, an official from Lewisham council which had been late in responding to our request told us that they were *'waiting for clearance from a manager'*. A response wasn't received for a further 7 weeks, an indication that such clearance procedures may be part of the delay problem described in this report.

Recommendation 14: authorities should ensure that their request handling procedures do not lead to less favourable treatment of journalists or requesters likely to publicise disclosures, either in terms of the content or promptness of the response.

Recommendations

1. Authorities should report publicly every quarter on the number of requests not answered within the required time scale, setting out the causes of the delay and the steps being taken to address them.
2. The IC should make clear that authorities which fail to respond to or even acknowledge her emails asking them to deal promptly with an overdue request (as some London councils have done) will make themselves prime candidates for further enforcement action.
3. The IC should reinstate its lapsed 2010 enforcement policy, including the monitoring of underperforming authorities, to ensure that authorities answer at least 90% of requests on time. It should demonstrate a readiness to issue Enforcement Notices where persistent delays continue.
4. Authorities should publish quarterly statistics on their FOI performance in accordance with the statutory guidance in the July 2018 Freedom of Information code of practice.
They should also publish (a) the actual time taken to respond to requests not answered within 20 working days, (b) the number of internal reviews carried out, the time taken to deal with them and their outcomes and (c) the number of complaints to the IC and tribunal appeals, with their outcomes.
5. Authorities should link to their published FOI statistics and performance reports from the FOI page of their website.
6. The IC should follow the example of the Scottish Information Commissioner and obtain and publish a compilation of all authorities' compliance statistics. The use of online tools for the submission of statistics should allow this exercise to be automated.
7. Authorities should ensure that online request forms automatically send the requester an acknowledgement that includes the text of the request and its date of submission.
8. Authorities should publish a phone number and email address to which requests for information and assistance can be made.
9. Authorities should (a) explain the FOI complaints process on their websites, making it clear that the right of appeal to the IC is normally only available once internal review has been completed (unless the complaint is about a significant delay) and (b) state their target time for completing internal review.
10. Where the volume of 'hits' turned up by an electronic search is too great to be examined without exceeding the FOI cost limit, authorities should consider whether the search is catching large amounts of irrelevant material. If so, they should consider whether that material can be excluded by adjusting the search terms (e.g. find documents containing the term "ABC" but not the term "XYZ") and carry out that search if it allows the request to be answered within the cost limit. If that search runs the risk of excluding some relevant documents, the implications should be explained to the applicant who should be given the option of asking for it to be done.
11. Authorities should publish and keep up to date a disclosure log. This should (i) describe the requests they have received, and (ii) the outcomes and (iii) include any released information.
12. Authorities should publish their FOI guidance to staff, linking to it from their FOI web page.
13. authorities should ensure that their guidance is accurate and is updated periodically in light of new case law and changes to the Information Commissioner's guidance.
14. Authorities should ensure that their request handling procedures do not lead to less favourable treatment of journalists or requesters likely to publicise disclosures, either in terms of the content or promptness of the response.

Appendices

Appendix 1. Number of FOI requests received by London councils

Local Authority	2017/18 or 2017*	2016/17 or 2016*
Barking & Dagenham	1594	1478
Barnet	1731	2097
Bexley	1528	1567
Brent	1814	1702
Bromley	1598	1528
Camden	1889	2028
City of London	1403	1354
Croydon*	1783	1704
Ealing*	1878	1719
Enfield	1318	
Greater London Authority	934	819
Greenwich*	1904	
Hackney	1954	1844
Hammersmith & Fulham	1648	1627
Haringey	1352	1471
Harrow	1404	1507
Havering*	1877	1764
Hillingdon	1685	1598
Hounslow*	2166	1900
Islington	1973	1917
Kensington & Chelsea*	1999	1598
Kingston	1538	1579
Lambeth	2362	2206
Lewisham	1554	1567
Merton	1795	1633
Newham	1858	1943
Redbridge	1682	1608
Richmond	1895	1634
Southwark	2269	1927
Sutton	1635	1448
Tower Hamlets	2319	2191
Waltham Forest	2156	
Wandsworth	1888	1810
Westminster	1872	1883
Total	60255	52651

Appendix 2. Compliance with FOI time limits

Local Authority	2017/18 or 2017*	2016/17 or 2016*
Barking & Dagenham	93%	48%
Barnet	96%	97%
Bexley	82%	78%
Brent	91%	96%
Bromley	64%	70%
Camden	85%	92%
City of London	97%	99%
Croydon	69%	76%
Ealing*	89%	92%
Enfield	66%	66%
Greater London Authority	90%	92%
Greenwich*	90%	
Hackney	66%	67%
Hammersmith & Fulham	89%	94%
Haringey	83%	87%
Harrow	68%	84%
Havering*	83%	90%
Hillingdon	88%	97%
Hounslow*	60%	42%
Islington	80%	73%
Kensington & Chelsea*	75%	79%
Kingston	82%	
Lambeth	87%	76%
Lewisham	61%	73%
Merton		84%
Newham	84%	89%
Redbridge	92%	97%
Richmond	93%	97%
Southwark	75%	87%
Sutton	89%	88%
Tower Hamlets	96%	88%
Waltham Forest	71%	
Wandsworth	74%	80%
Westminster	74%	81%

Appendix 3. Response times to 2016 CFI request for FOI statistics, performance reports and internal guidance

Local Authority	Working days to respond
Barking & Dagenham	55
Barnet	18
Bexley	7
Brent	16
Bromley	17
Camden	4
City of London	14
Croydon	20
Ealing	20
Enfield	98
Greater London Authority	2
Greenwich	215
Hackney	20
Hammersmith & Fulham	22
Haringey	1
Harrow	3
Havering	19
Hillingdon	19
Hounslow	21
Islington	10
Kensington & Chelsea	14
Kingston	220
Lambeth	6
Lewisham	21
Merton	4
Newham	25
Redbridge	2
Richmond	10
Southwark	12
Sutton	9
Tower Hamlets	20
Waltham Forest	16
Wandsworth	77
Westminster	19

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**London Borough of Barnet
Constitution and General
Purpose Committee Work
Programme
June 2019 – April 2020**

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
25 June 2019			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review.	Monitoring Officer Head of Governance	Non-key
Health and Safety Annual Report	Review health and safety performance 2018/19 and agree priorities for the 2019/20.	Head of Safety, Health and Wellbeing	Non-key
Code of Conduct Allegations 2018/19	To consider a report on complaints the Monitoring Officer has received about Member conduct during 2018/19	Monitoring Officer	Non-key
7 October 2019			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review.	Monitoring Officer Head of Governance	Non-key
16 January 2020			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review	Monitoring officer Head of Governance	Non-key
Annual Pay Policy Statement	To receive the annual review of the Council's pay policy statement together with any amendments.	Strategic HR Director	Non-key

Title of Report	Overview of decision	Report Of (<i>officer</i>)	Issue Type (Non key/Key/Urgent)
Annual Report on Electoral Registration	To receive an Annual Report on Electoral Registration	Returning Officer Head of Electoral Services	Non-key
Annual Review of Polling Districts and Polling Places for Elections	To receive the findings of the annual review of polling districts and polling places for use at elections.	Returning Officer Head of Electoral Services	Non-key
1 April 2020			
Constitution Review <i>Standing Item</i>	To review and approve revisions to the Constitution following the review of elements which require updating and review	Monitoring officer Head of Governance	Non-key
Items to be allocated			
Performance Related Pay	A report detailing the development of a performance related pay scheme for those staff assessed for two consecutive years as outstanding through the annual appraisal scheme.	Chief Executive and Head of Paid Service Strategic HR Director	Non-key
Information Management <i>As and when required</i>	To determine Member requests for non-committee information as specified in the Members' Information Management Policy	Director of Assurance Head of Assurance and Business Development	Non-key

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