



# London Borough of Tower Hamlets Constitution





# Part A – Summary and Explanation





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## Contents

Part A – Summary and Explanation .....	5
1 Introducing the Council's Constitution.....	6
2 How the Council Operates .....	7
3 How Decisions are Made .....	9
4 Citizens' Rights .....	14
5 The Speaker of the Council .....	17
6 Members of the Council.....	19
7 Council.....	22
8 The Mayor and the Executive .....	25
9 Overview and Scrutiny .....	28
10 Regulatory and Non-Executive Committees .....	31
11 The Standards Advisory Committee and the Code of Conduct for Members	33
12 Joint Arrangements and Partnership Working .....	34
13 Officers of the Council .....	37
14 Finance, Contracts and Legal Matters .....	40
15 Suspending, Interpreting and Changing the Constitution and Changes to Executive Arrangements.....	42

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## 1 Introducing the Council's Constitution

1. This Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to determine.
2. The Constitution is divided into four parts:
  - Part A – Introduction and Explanations
  - Part B – Responsibility for Functions and Decision-Making Procedures
  - Part C – Codes and Protocols
  - Part D – Supplementary Documents
3. The purpose of the Constitution is to ensure that:
  - The Mayor and Council provide clear and accountable leadership to the community in partnership with citizens, businesses and other organisations;
  - The roles and responsibilities of the executive, non-executive, scrutiny and officer functions are clearly defined and documented, with clear delegation arrangements;
  - Citizens, businesses and other organisations are actively involved in decision making;
  - Citizens are effectively represented by their Mayor and Councillors;
  - The delivery of services to the community is improved;
  - Decisions are taken efficiently, effectively and transparently;
  - Decision-makers are clearly identifiable, that they explain the reasons for their decisions and can be held to public account.
  - The highest standards of conduct of Members and officers of the authority is maintained and that no one will review or scrutinise a decision in which they were directly involved;
  - It provides a comprehensive document explaining how the Council operates, who is responsible for taking decisions and how they will be taken.
4. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## 2 How the Council Operates

1. The Council operates the directly elected Mayoral form of Executive. The Council is composed of a Mayor and forty-five Councillors. The Mayor is directly elected by the electors of the Borough, normally for a four-year term of office. The Mayoral election will be held on the same day as the ordinary Council elections, at which Councillors are elected to represent each of the Wards within the Borough every four years. Councillors are democratically accountable to residents of their Ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
2. The Council may also appoint additional 'Co-opted' Members to certain Committees and Sub-Committees. Co-optees are people who are chosen to represent a specific area of interest or issue of consideration. These representatives are not elected members of the Council and are appointed because of their level of knowledge and experience. These co-opted members make a very useful contribution to discussions and help make the correct decisions in relation to important matters.
3. The Mayor, Councillors and Co-optees are together known as 'Members' of the Authority. Members have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Council's Standards Advisory Committee is responsible for advising Members on the Code of Conduct and ensuring that they receive training on the requirements of the Code, which they are required to observe in carrying out their duties and responsibilities as Members.
4. The Mayor and all Councillors meet together at Council. Meetings of Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. Council appoints annually an Overview and Scrutiny Committee, Regulatory Committees, a Standards Advisory Committee, and other statutory, advisory and consultative bodies.
5. The Mayor appoints a Deputy Mayor and (up to nine) Cabinet Members who form the Council's Executive, they are responsible for most day to day decisions. The Mayor and other Executive Members meet together as the 'Cabinet'. The Mayor is responsible for the Council's main executive decision-making powers and the overall delivery of Council services.
6. The other executive decision-making bodies are:
  - the King George's Field Charity Board to administer the affairs of the King George's Field, Mile End charity of which the Council is the sole trustee; and
  - the Grants Determination Sub-Committee.

7. The Executive Scheme of Delegation sets out more detail on the Mayor and Executive functions.
8. The Overview and Scrutiny Committee is established to review or scrutinise decisions of the Executive and conduct reviews into functions which are the responsibility of the Executive. Section 9 of the Constitution sets out an introduction to role of Overview and Scrutiny and links to more detailed sections later in the Constitution.
9. The Overview and Scrutiny procedure rules (Part B, Section 30) set out in more detail how the Committee and its sub-committees operate.



### **3 How Decisions are Made**

#### **Principles of Decision-Making**

1. All decisions of the Council will be made in accordance with the following principles:
  - a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - b) due consultation and the taking of professional advice from officers;
  - c) respect for human rights;
  - d) a presumption in favour of openness;
  - e) clarity of aims and desired outcomes;
  - f) take account of all relevant matters;
  - g) discount irrelevant matters; and
  - h) explaining what options were considered and giving the reasons for the decision.

#### **Responsibility for Decision-Making**

2. The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part B of this Constitution.
3. The form of the Council's Executive Arrangements is a 'Mayor and Cabinet' model as defined in section 9C of the Local Government Act 2000 (as amended). Therefore, decision-making at the Council is split into the following types:
  - 'Executive'
    - Including 'Executive Key Decisions'
  - 'Non-Executive' functions.

#### **Executive Decision Making**

4. The Mayor is responsible for Executive decision-making and is therefore responsible for most day to day decisions. The Mayor can take these decisions at Cabinet, in a Cabinet Sub-Committee or the decisions can be delegated to officers.

5. These decisions must be in line with the Council’s Budget and Policy Framework. If any of these decisions change the Framework then these must be referred to Council.

**Executive Key Decisions**

6. A “key decision” is an executive decision which is likely to:
- A. result in the local authority incurring expenditure or the making of savings of:

Savings	Where the proposal is expected to result in savings of above £1 Million
Revenue expenditure	Where the proposal involves revenue expenditure of above £1 Million
Capital expenditure	Where the proposal involves capital expenditure of above £5 Million

**OR**

- B. be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions.
- i. In considering whether a decision is likely to have a significant impact, the decision maker is to consider the strategic nature of the decision and whether the outcome will have a significant material impact, for better or worse, on the local amenity or wellbeing (including social and environmental impact) of the community or the quality of service provided to a significant number of people living or working in the locality affected.
  - ii. When officers consider the impact on the Community they will, for example, consider the effect on specific groups within that Ward (defined by other characteristics such as ‘age’, ‘culture’ etc) where those groups make up a significant proportion of that Ward’s population.
  - iii. In determining the meaning of “significant” for the purposes of these paragraphs, regard must be had to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the Local Government Act 2000.

**In addition to the above, officers will also consider the following guidance when determining if an issue should be treated as a Key Decision:**

7. A decision to approve, update or amend a policy, strategy, plan, scheme (or similar) will only be a key decision if criteria (A) or (B) above would apply to the implementation of the document once approved, updated or amended.
8. Documents listed in Section 7 under the Budget and Policy Framework, are non-executive decisions reserved to Full Council and therefore cannot be key decisions. However, they are required to be prepared and developed by Cabinet in accordance with the Budget and Policy Framework Procedure Rules at Part B Section 28 of the Constitution.
9. A decision or report in relation to preparation and development of an issue, for example to begin a public consultation exercise, will not normally be a key decision unless criteria (A) or (B) above would also apply to that specific action. Even if the final determination of that issue would result in a Key Decision.
10. A decision not fulfilling the criteria at (A) or (B) above may follow the same process as a key decision if, in the professional opinion of the Chief Executive or the appropriate Corporate Director, it is a matter of particular political sensitivity.
11. A decision which is the same or similar to one taken in the past (for example, the approval of a previous iteration of a plan or strategy), and does not fulfil criteria (A) or (B) above, is not a Key Decision even if the comparable previous decision was identified as a Key Decision.

### **Taking Key Decisions**

12. A decision taker, when making a decision may only take a Key Decision in accordance with the requirements of the Executive Procedure Rules set out in Part B Section 29 of the Constitution.
13. When Key Decisions are to be made, notice of these decisions must be published in advance, in so far as they can be anticipated. If these Key Decisions are to be taken at an Executive meeting (for example Cabinet) this will generally be open for the public to attend, except for restricted agenda items which include, for example, personal, commercially sensitive or confidential matters.
14. The Health and Wellbeing Board is a statutory committee under the provisions of the Health and Social Care Act 2012 but does have certain executive functions and if this Board is making a Key decision then this will be published in advance. The meeting generally is open for the public to attend, except where restricted matters are being discussed in the same way as for other Executive meetings.

15. Part A, Section 8 provides more detail of Executive Decision Making.

### **Executive Decision Making by Officers**

16. Part B, Section 23 contains the Corporate Scheme of Delegation which must be read in conjunction with the Council-wide Operating Procedures and Directorate Schemes of Delegation published in Part D.
17. These documents set out where Officers have delegated powers to take Executive Decisions. However, the following must always be followed in respect of officer decisions:
- Officers may not take Key Decisions unless there has been a specific delegation by the Executive.
  - Any officer decision resulting in (revenue or capital) expenditure or savings of over £250,000 must only be taken following consultation with the relevant Lead Cabinet Member and must be published on the Council's website 'as soon as practicable' (and following any guidance from the Monitoring Officer) after the decision has been taken.

### **Non-Executive Decision Making**

18. The Council has responsibility for all Non-Executive functions and for approving the Budget and Policy Framework. The Council, as a whole, retains responsibility for regulatory functions and has a role in holding the Executive to account.

### **Decision-Making by Council**

19. Certain decisions, such as the overall Council Budget, Council tax and the policy framework are reserved to Council. Section 7 sets out more details of how Council operates.

### **Decision-Making by Other Committees and Sub-Committees Established by the Council**

20. Council has established a number of other Committees and Sub-Committees to undertake specific decision-making functions.
21. The following Committees have been established:
- Audit Committee
  - General Purposes Committee
  - Licensing Committee
  - Pensions Committee

- Standards Advisory Committee
- Strategic Development Committee & Development Committee

22. Section 10 provides more information about the Council's Committees.

### **Non-Executive Decision Making by Officers**

23. Part B Sections 16 and 17 and Part D Sections 43 and 44 set out the Council's Non-Executive Functions and any delegations to officers for those functions. Where decisions have been delegated to officers the following must be followed:

- Any officer decision resulting in (revenue or capital) expenditure or savings of over £250,000 must be published on the Council's website 'as soon as practicable' (and following any guidance from the Monitoring Officer) after the decision has been taken.

### **Decision-Making by the Overview and Scrutiny Committee and Scrutiny Panels**

24. The Council has established an Overview and Scrutiny Committee whose main responsibility is to review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the Executive.
25. The Overview and Scrutiny Committee, and any Scrutiny Sub-Committees it appoints, will follow the Overview and Scrutiny Procedure Rules and relevant parts of the Council Procedure Rules set out in Part B Section 30 of this Constitution which apply to them when considering any matter.
26. Section 9 also sets out a summary about the Overview and Scrutiny Committee.

### **Decision-Making by Council Bodies Acting as Tribunals**

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

## 4 Citizens' Rights

1. Citizens have various rights as set out below. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part B Section 27 of this Constitution.
2. **General Rights:** citizens have a number of general rights including to:
  - vote at Mayoral and Council elections if they are eligible and registered;
  - contact the Mayor or their local Councillor about any matters of concern to them;
  - participate in the Tower Hamlets Partnership and consultative mechanisms or service user groups, if selected or appointed to do so;
  - complain about Council services, actions, the conduct of Members or to highlight potential malpractice or illegality;
  - examine the Council's accounts when open for inspection and make their views known to the external auditor.
3. **Voting and Petitions.** Citizens on the electoral register have the right to vote at elections. All citizens (that is people living, working or studying in the borough) have the right to present personally or to request a Councillor to present a petition on their behalf to Council, the Cabinet, Scrutiny, Regulatory or other Committees/ Sub Committees or Panels, subject to the detailed provisions laid down in the Petition Scheme and the procedures adopted by those bodies.
4. **Participation in Decision Making.** All citizens have the right to participate in Council and Committee meetings and contribute to investigations by Scrutiny Panels. Processes for public participation are set out in the procedures for various Committees and meetings including in Section 26 (Council Procedure Rules) and Section 30 (Overview and Scrutiny Procedure Rules). Individual Committees such as the Licensing and Strategic Development Committee will set out procedures to follow for public participation.
5. As a summary, citizens can:
  - access the Constitution;
  - attend and record formal meetings of Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - attend and record meetings of the Cabinet and any other Executive bodies except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

- see forward plan notices of forthcoming decisions, plus reports, background papers and any records of decisions made by the Council and the Mayor, the Executive or appropriate Member or Key Decisions taken by officers;
  - see unrestricted reports and associated background papers and any published record of decisions made by Council, other non-executive Committees/ Sub-Committees;
  - speak at Development or Licensing Committees/ Sub-Committees in favour or against planning or licensing applications, subject to the detailed provisions laid down in procedures adopted by those bodies;
  - present petitions or otherwise participate in meetings of Council, the Cabinet, Scrutiny, Regulatory or other Committees, depending on their specific procedure rules, and contribute to investigations by Scrutiny;
6. The Council maintains web pages providing information about its formal decision-making meetings and processes and opportunities for public engagement. These are held at [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee).
7. **Compliments and Complaints.** All citizens have the right to:
- i. submit a compliment or comment on the Council and its services
  - ii. complain to the authority itself under its complaints scheme or any other applicable statutory complaints scheme;
  - iii. complain to the Local Government and Social Care Ombudsman and Housing Ombudsman after using the Council's own complaints scheme; and
  - iv. complain the Council's Monitoring Officer about a breach of the Code of Conduct for Members, or to raise a public interest concern if they have evidence which they think shows malpractice, wrongdoing, illegality or risk in the Council and which is not appropriate for consideration under another Council procedure.

### **Citizens' Responsibilities**

8. Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully damage things owned by the Council, Councillors or officers.
9. When attending meetings of Council, Committees/ Sub-Committees/ Panels or the Cabinet, citizens must not behave improperly, offensively or interrupt the business of the meeting as such action will result in their being removed and excluded from the meeting.

10. Where members of the public use specific Council services, for example as a parent of a school pupil or as an occupier of Council land or premises, they have additional rights. These are not covered in this Constitution.



## 5 The Speaker of the Council

1. The position of Speaker of the Council performs the duties often carried out by the post of 'civic mayor'.
2. The Council has decided, in agreeing its Executive Arrangements, that the Speaker of the Council will be the first citizen of the Borough and will perform the majority of civic and ceremonial duties for the Borough. The Mayor will perform those functions as the Council's representative where they relate to the promotion of, or business of, the Council. Any future change to these arrangements will be a matter for the Council to determine.
3. **The Speaker of the Council may not be a member of the Executive.**
4. The Speaker of the Council and the Deputy Speaker will be elected by Council annually and the Speaker will have the following roles and functions:
  - a) to uphold and promote the purposes of the Constitution and having sought appropriate advice from the Monitoring Officer, to interpret the Constitution when necessary;
  - b) to preside over meetings of Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  - c) to ensure that Council is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet can hold the Mayor and Cabinet Members to account in public;
  - d) to promote public involvement in the Council's activities;
  - e) to be the conscience of the Council; and
  - f) to attend such civic and ceremonial functions as the Council and s/he determines appropriate.
5. **The Deputy Speaker of the Council will deputise for the Speaker of the Council whenever the Speaker of the Council is unavailable or unable to act.**
6. The order of precedence for civic events shall be as follows, with the Borough's First Citizen representing the Council at Civic Ceremonial functions in the Borough including:
  - Visits of the Royal Family and dignitaries;
  - Civic receptions, luncheons and dinners;
  - Funeral or memorial services;
  - Religious services; and
  - Prize givings.

7. And events outside the Borough including:
  - Those of the Lord Mayor of London;
  - Invitations from other First Citizens to their Borough; and
  - Those of the London Mayors' Association.
  
8. This does not preclude the attendance and involvement of the Mayor and/or other Councillors.

## **6 Members of the Council**

### **Composition and Eligibility**

1. The Council will comprise a directly elected Mayor and 45 Councillors. The Mayor will be elected by the voters of the whole borough; and the Councillors will be elected by the voters of each ward, in accordance with a scheme drawn up by the Local Government Boundary Commission for England.
2. The term 'Member of the Council' (or simply 'Member') as used throughout this Constitution includes both the Mayor and the Councillors and any individuals co-opted to Council Committees and Sub-Committees.
3. Only registered voters of the borough or those living or working here in accordance with the relevant legislation will be eligible to stand for election for the office of Mayor or Councillor.

### **Election and Terms of the Mayor and Councillors**

4. The regular elections of Mayor and Councillors will be held every four years, normally on the first Thursday in May. The term of office of the Mayor and Councillors will be four years and will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **Roles and Functions of all Councillors**

5. All Councillors will:-
  - a) Collectively be the ultimate policy-makers and carry out a number of strategic functions;
  - b) Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
  - c) Effectively represent the interests of their ward and of individual constituents;
  - d) Respond to constituents' enquiries and representations, fairly and impartially;
  - e) Participate in the governance of the Council;
  - f) Be available to represent the Council on other bodies; and
  - g) Maintain the highest standards of conduct and ethics.

## **Rights and Duties**

6. Councillors 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.
7. Councillors 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.
8. For these purposes “confidential” and “exempt” are defined in the Access to Information Procedure Rules in Part B Section 27 of the Constitution.

## **Cessation of Membership**

9. A Councillor will cease to be a Member if they resign by giving notice in writing, or if they fail to observe the requirement to attend Council meetings as prescribed by section 85 of the Local Government Act 1972 or if they are disqualified from holding office by virtue of section 80 of the Local Government Act 1972 or any other statutory provision.
10. With regard to the requirement to attend meetings, a Councillor must attend at least one relevant meeting during a period of six (6) months to remain qualified to hold office. A relevant meeting includes Council, the Cabinet, any Committee, Sub Committee or external body to which the Councillor has been formally appointed.
11. If a Councillor believes that there is an exceptional and unavoidable reason why they are unable to attend a relevant meeting during a period of six (6) months or to otherwise perform their proper duties as a Councillor for part or all of the same period, the Councillor concerned may seek a dispensation from the Council by writing to the Chief Executive explaining the reason for their unavoidable absence and the period to which the absence will relate. This will be reported to the Council at its next ordinary meeting. The Council will decide whether or not to grant such an exemption to the attendance requirement and will only do so in exceptional circumstances and with evidence that the absence is unavoidable. An exemption cannot be granted if a particular Councillor’s absence has already exceeded six months.

## **Conduct**

12. The Mayor, Councillors and Co-opted Members will at all times observe the Code of Conduct for Members, Member/Officer Protocol, the Licensing and Planning Codes of Conduct and all other Codes and Protocols set out in Part C of this Constitution or otherwise agreed by the Council from time to time.

## **Allowances**

13. The Mayor, Councillors and Co-opted Members will be entitled to receive allowances in accordance with the Members' Allowances Scheme as set out in Part C Section 39 of this Constitution.

## **Freedom of the Borough**

14. Under Section 249(5) of the Local Government Act 1972, the Council has the power to confer honorary freedom of the Borough to persons of distinction and to persons who have, in the opinion of the authority, rendered eminent services to the borough.
15. The title can only be given by a resolution of Council, at a meeting convened for the purpose and the resolution requires a two-thirds majority of the Members present and voting for it to be passed.
16. Similarly, a resolution requires a two-thirds majority of the Members present and voting to rescind a previously made nomination.
17. Awarding the title of Freedom of the Borough does not confer any rights or responsibilities on that individual. The Council may though choose to engage the individual in the civic business of the borough including such events as:
  - Citizenship Ceremonies
  - Civic Awards
  - Civic and remembrance services
18. Under section 249(10), the admission of a person as honorary freedom of the Borough does not carry any right to attend meetings of the Council or its committees or to claim any allowances for attendance at meetings. However, the Council may choose to cover reasonable expenses for attendance at any of the above listed civic events.

## 7 Council

1. The Council has responsibility for all Non-Executive functions and for approving the budget and policy framework. The Council as a whole also retains responsibility for regulatory functions.

### **Budget and Policy Framework**

2. Policy Framework. The policy framework means the following plans and strategies required to be approved by Council. The table below shows those plans and strategies that are required by statute or the Council to be included in its policy framework:

<b>Document</b>	<b>Relevant Legislation</b>
Crime and Disorder Reduction Strategy	Sections 5 & 6 Crime & Disorder Act 1998
Development Plan Documents as well as Plans and Alterations which together comprise the Development Plan	Section 20 Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011  Section 27 Town and Country Planning Act 1990
Licensing Authority Policy Statement	Section 349 Gambling Act 2005
Local Transport Plan	Section 108(3) Transport Act 2000
Youth Justice Plan	Section 40 Crime & Disorder Act 1998

3. With the exception of the Development Plan documents, any plans, strategies, policies or schemes which support a policy framework document will not also be part of the Budget and Policy Framework unless the principal document specifies that it is.
4. **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, (including the recommended Council tax base), setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
5. **Dispute Resolution.** Specific procedures apply where Council does not agree to the Mayor's proposals in respect of budget and policy framework reports. These are set out in the Budget and Policy Framework procedure rules in Section 28 of the Constitution.

## **Housing Land Transfers**

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

## **Functions of Council**

7. Only Council will exercise the following functions:
  - a) adopting and changing the Constitution (except where the power to make any change is delegated to either the General Purposes Committee or the Monitoring Officer or as set out in Part D of this Constitution);
  - b) approving or adopting the policy framework and the budget;
  - c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part B Section 27 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget;
  - d) agreeing and/or amending the terms of reference for Committees/ Sub-Committees, deciding on their composition and making appointments to them, subject to any delegations to Committees and/or officers as set out in this Constitution;
  - e) appointing representatives to those external bodies that do not fall to the Mayor to appoint to, unless the function has been delegated by the Council or this Constitution;
  - f) adopting an allowances scheme for Members;
  - g) the determination of matters relating to Community Governance Reviews as set out in the Local Government and Public Involvement in Health Act 2007, unless the matter has been delegated by the Council or this Constitution.
  - h) changing the name of the area, conferring the title of honorary alderman or conferring the freedom of the borough;
  - i) confirming the appointment of the Head of the Paid Service;
  - j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
  - k) adoption and amendment of the authority's Code of Conduct for Members and other Codes and Protocols comprising the ethical framework;

- l) adopting the Council's Pay Policy Statement each year as required by the Localism Act 2011; and agreeing any in-year changes to the Pay Policy Statement.
- m) arranging for the discharge of any other functions of the authority which are not executive functions;
- n) subject to any matters delegated to Committees/ Sub-Committees or officers, determining all local choice functions as described in Part B of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- o) accepting the delegation of a power or function from another local authority; and
- p) all other matters which, by law, must be reserved to Council.

### **Council Meetings**

- 8. There are four types of Council meeting:
  - a) the annual meeting;
  - b) the budget meeting(s),
  - c) ordinary meetings, and
  - d) extra-ordinary meetings,
- 9. They will be conducted in accordance with the Council Procedure Rules in Part B Section 26 of this Constitution.
- 10. The Mayor and all Councillors may attend meetings of Council and may participate as set out in the Council Procedure Rules.

### **Responsibility for Functions**

- 11. As part of this Constitution, the Council will maintain a document setting out the "Responsibilities for the Council's functions" which are not the responsibility of the Executive.
- 12. Decisions relating to the functions listed in the "Responsibilities for the Council's functions" document will be allocated by legislation, therefore, if the legislation changes, the Constitution will be changed by the Monitoring Officer in accordance with delegated powers set out in Part D of the Constitution.
- 13. Subject to Section 3, Paragraph 27, the Council meeting will follow the Council Procedure Rules set out in Part B of this Constitution when considering any matter.



## 8 The Mayor and the Executive

### The Role of the Executive

1. The Executive will carry out all the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
2. Subject to Section 3, Paragraph 27, the Mayor and Executive will follow the decision-making procedures set out in Part B of this Constitution when considering any matter.
3. The following parts of the Constitution, insofar as they relate to executive functions, constitute the Executive Arrangements:
  - Section 3 (How decisions are made)
  - Section 8 (The Mayor and the Executive) and Section 29 (Executive Procedure Rules)
  - Section 9 (Overview and Scrutiny Committee and Scrutiny Panels) and Section 30 (Overview and Scrutiny Procedure Rules)
  - Section 12 (Joint Arrangements and Partnership Working)
  - Section 18 (Responsibility for Executive Functions)
  - Section 22 (Terms of Reference – The Executive)
  - Section 27 (Access to Information Procedure Rules)

### Form and Composition

4. The Executive will consist of the Mayor and between two and nine Councillors appointed by the Mayor, called Cabinet Members. One of the Cabinet Members will be appointed by the Mayor as the Statutory Deputy Mayor. When the Mayor and Cabinet Members meet together in Committee this is known as a meeting of the Cabinet.
5. The King George's Field Charity Board and the Grants Determination Sub-Committee are also Executive Bodies having executive decision-making powers. The Health and Wellbeing Board also has certain Executive functions

### The Mayor

6. The Mayor will exercise strategic political leadership by developing and communicating clearly to citizens, businesses and service users the authority's purpose and vision and its intended policy outcomes. In developing strategic policy the Mayor will work closely with the Chief Executive and have regard to advice tendered.

7. The Mayor will be a person elected to that position by the electors of the borough in the Mayoral election. In the event that a serving Councillor of the London Borough of Tower Hamlets is elected as Mayor, a vacancy shall be declared in that person's Council seat and a by-election shall be held (if required) in accordance with the relevant legislation.
8. The term of office of the Mayor will normally be four years. They will take office on the fourth day after their election and will continue in office until the fourth day after their successor is elected, unless they die, are disqualified or resign.

### **The Statutory Deputy Mayor**

9. The Statutory Deputy Mayor will be a Councillor appointed to that position by the Mayor from among the Cabinet members.
10. The Mayor may replace the Statutory Deputy Mayor at any time but otherwise the Statutory Deputy Mayor shall remain in post for the duration of the Mayor's term of office, unless:
  - a) they resign from office; or
  - b) they are no longer a Councillor
11. The Statutory Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that for any reason the Mayor is unable to act at any time.

### **Other Executive Members**

12. The Mayor shall appoint between two and nine Councillors to be members of the Executive (Cabinet Members) alongside the Mayor. All of the Cabinet Members must be serving Councillors of the authority. The Mayor may allocate to each Cabinet Member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 17-18 below).
13. The Mayor must appoint one of the Cabinet Members as the Statutory Deputy Mayor.
14. The Mayor may replace or remove a Cabinet Member, and/or may vary or delete their portfolio responsibilities, at any time.

15. Executive Members shall hold office until:
  - a) They are removed or replaced by the Mayor;
  - b) They resign from office; or
  - c) They are no longer a Councillor.
  
16. In the case of a vacancy arising in any post of Cabinet Member the Mayor may appoint a Councillor to the vacant post at his/her discretion.

### **Cabinet Responsibilities**

17. The Executive Members will have portfolios as set out in the Executive Scheme of Delegation within Section 29 of this Constitution.
  
18. The portfolios may be subject to change from time to time at the discretion of the Mayor and will be updated by the Monitoring Officer as soon as reasonably practicable when so advised by the Mayor.

### **Proceedings of the Cabinet**

19. Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Section 29 of the Constitution.

### **Responsibility for Functions**

20. The Monitoring Officer will maintain a list as part of this Constitution, setting out which individual Cabinet Members or Committees of the Executive, officers or joint arrangements (see Section 29 – Executive Procedure Rules) are responsible for the exercise of particular executive functions.

## **9 Overview and Scrutiny**

1. Overview and Scrutiny provide an important check and balance function to ensure that the decisions of the Executive, Mayor and Cabinet are in the best interests of residents and that the council is providing high quality services.
2. The scrutiny process provides non-executive councillors and co-opted Members with an opportunity to examine the services provided by the council and partner agencies, ask questions on how decisions are made and to consider whether service improvements can be put in place. Members of all political parties can work together in a challenging and constructive way to propose improvements not only to the way the council works, but also to other public services in the local area more generally.

### **Scrutiny Committees and Sub-Committees**

3. Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by sections 9F to 9FI of the Local Government Act 2000; section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or any functions which may be conferred on it by virtue of regulations under section 244(2ZE) of the National Health Service Act 2006 (local authority scrutiny of health matters).
4. Council will appoint a Member to serve as the Chair of the Overview and Scrutiny Committee. The Committee will appoint its own Vice-Chair.
5. The Committee will appoint a Sub-Committee to discharge the Council's functions under the National Health Service Act 2006 (including scrutiny of the local health service) to be known as the Health and Adults Scrutiny Sub-Committee and it may also appoint such other Sub-Committees as the Committee considers appropriate to carry out its work programme. The Overview and Scrutiny Committee will appoint Members as Chairs of any such sub-committees. The Sub-Committees will appoint their own Vice-Chairs.
6. The Overview and Scrutiny Committee and its Scrutiny Sub-Committees will generally meet in public and will conduct their proceedings in accordance with the Procedure Rules in Section 30 of this Constitution.

### **Scrutiny Leads**

7. The Overview and Scrutiny Committee may appoint from amongst its Members, 'Scrutiny Lead Members' with responsibility for specific portfolios.

## **General Role and Responsibilities**

8. Section 30 (Overview and Scrutiny Procedures Rules) sets out in more detail how the Overview and Scrutiny Committee and its Sub-Committees will operate. In summary, their roles include the following:
  - Scrutiny of decisions or actions taken by the executive.
  - Provide advice and reports to the Executive on key issues including making recommendations to Council and/or the Mayor/Executive.
  - Question Members of the Executive and/or Committees and chief officers about their views on issues and proposals affecting the area.
  - Liaise with external organisations operating in the area to ensure the interests of local people are enhanced by collaborative working including by reviewing the performance of public bodies in the area and inviting reports from them.
  - Exercise the right to 'call in' for reconsideration decisions made but not yet implemented by the Mayor/Executive.
  - Assist the Council and the Executive in the development of its budget and policy framework and in the in-depth analysis of policy issues.
  - Look to enhance community participation in the development of policy options including through petitions to Scrutiny meetings following the rules set out in the Council's Petition Scheme.
  - To consider issues raised under the 'Councillor Call for Action' procedure.

## **Reporting**

9. The Overview and Scrutiny Committee reports annually to Council on its work.
10. The Overview and Scrutiny Committee will report to Council, Cabinet or the Mayor or appropriate Cabinet member and make recommendations, as appropriate. All reports and/or recommendations of Scrutiny Sub-Committees shall first be considered by the Overview and Scrutiny Committee before being reported to Council, Cabinet, the Mayor or Cabinet member, as appropriate.

## **Further Information**

11. The following sections of the Constitution contain more information about the Council's Overview and Scrutiny function:
  - Section 19 – Terms of Reference for Council and Committees
  - Section 21 – Terms of Reference for Joint Committees

- Section 30 – Overview and Scrutiny Procedure Rules
- Section 53 – Scrutiny Sub-Committee Procedure Rules

## 10 Regulatory and Non-Executive Committees

1. Council will appoint the Committees set out in Part B to discharge the functions described in the “Responsibility for Functions” information also in Part B.
2. Council will appoint a Member to serve as Chair of each Committee that it appoints under this Section. If the Council does not, the Committee may appoint a Chair from amongst the Members appointed to the Committee by the Council.
3. Each Committee may appoint a Vice-Chair from amongst its Members.
4. Except where prevented in law, or this Constitution, any Committee may establish one or more sub-committees to undertake specific areas of decision making that would normally be the responsibility of the parent Committee.
5. Subject to Section 3, Paragraph 27, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Section 27 of this Constitution as apply to them.

### Development Control and Licensing

6. Two regulatory Committees often of general interest to the public are those that deal with Development Control and Licensing.
7. **Development Control** – Tower Hamlets Council is a local planning authority for its area (other than parts of Bromley by Bow and Fish Island which currently fall under the London Legacy Development Corporation). Local Planning Authorities must make a Local Plan for their area and make decisions on planning applications for new development that are submitted.
8. The executive Mayor, Cabinet and full Council are responsible for decisions about the Council's Local Plan. Most decisions on planning applications are made by senior planning officers under powers that are delegated to them. Applications for the largest scale developments or those which have attracted significant public interest are determined by one of the Council's two planning committees - the **Development Committee** and the **Strategic Development Committee**. They make decisions in public, in line with policies in the Council's Local Plan and other development plan documents, such as the London Plan. The Committees will hear representations from members of the public who can register to speak in support of, or in objection to, an application. The terms of reference for both committees are set out in Section 19 of the Constitution."

9. The **Licensing Committee** oversees the discharge of all licensing functions of the Council as the Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (excluding the Council's Statement of Licensing Policy). The Licensing Committee also reviews licensing fees and charges and oversees the Licensing activities of the Environmental Health and Trading Standards Service.
10. The Licensing Committee also has a responsibility to consider and determine matters under Section 2 of the Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 regarding the control of sex establishments within the borough. It also considers and determines matters under the London Local Authorities Act 1991 in respect of premises providing or wishing to provide special treatments within the borough where objections have been received and not withdrawn.
11. The Licensing Committee establishes **Licensing Sub-Committees** to consider Licensing matters under the Licensing Act 2003. The Sub Committees determine applications to grant, vary a license where representations have been made, or where an application to review a licence has been made. The Sub Committee is established to perform the functions of the Licensing Authority with a view to promoting the four licensing objectives:
  - The prevention of public nuisance
  - The prevention of crime and disorder
  - Public safety
  - The protection of children from harm
12. The meetings are an opportunity for councillors to make a decision based on the points of view of all relevant parties.
13. The Licensing Committee and Licensing Sub-Committee Terms of Reference are at Part B Section 19 and the Licensing Code of Conduct is at Part C Section 34.



## **11 The Standards Advisory Committee and the Code of Conduct for Members**

### **Code of Conduct**

12. In accordance with the requirements of the Localism Act 2011 the Council has adopted a Code of Conduct for Members together with arrangements for dealing with any complaint of a breach of the Code including the appointment of an Independent Person. The Code of Conduct and the arrangements for dealing with any complaint of a breach of the Code are set out at Part C, Section 31 of this Constitution.

### **Standards Advisory Committee**

13. In order to promote and maintain high standards of conduct, the Council at its Annual Meeting will establish a Standards Advisory Committee using its powers under section 102(4) of the Local Government Act 1972.
14. The Standards Advisory Committee shall have the power to create sub-committees in order to discharge its advisory role.
15. The Standards Advisory Committee's composition shall be set out in its Terms of Reference. It includes Councillors and Independent Co-opted Members (but may not include the Mayor or more than one Cabinet Member).
16. The Standards Advisory Committee has a set of procedures which govern its arrangements. These are set out Part B Section 19 and Part D Section 53.

### **Independent Persons**

17. The Council has appointed two statutory Independent Persons to assist in dealing with complaints of alleged breach of the Code of Conduct for Members under section 28(7) of the Localism Act 2011. They are not co-opted member of the Standards Advisory Committee but may attend and observe any meeting of the Committee or a sub-committee established by it.

## 12 Joint Arrangements and Partnership Working

### **Arrangements to Promote Well-Being.**

1. The Council or the Executive in order to promote or improve the economic, social or environmental well-being of the whole or any part of the borough, may:
  - a) enter into arrangements or agreements with any person or body;
  - b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
  - c) exercise on behalf of that person or body any functions of that person or body.

### **Joint Arrangements**

2. The Council, or any officer delegated under the Council's Scheme of Delegation, may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of a joint Committee with these other local authorities and/ or their Executives.
3. The Mayor or Executive may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities and/ or their Executives.
4. The Mayor or Executive may only appoint Executive Members to a joint Committee except where:
  - i. the joint committee is discharging a function in relation to five or more relevant authorities; or
  - ii. the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee,
5. Every person appointed to the joint committee by the Executive may be a member of the Executive or of the Council.
6. The political balance requirements do not apply to the appointments in 4 and 5 above.

## **Current Joint Committees**

7. Pursuant to section 101 of the Local Government Act 1972 and section 9EB of the Local Government Act 2000 the Council is a member of a number of joint committees under the umbrella of London Councils (formerly known as the Association of London Government or the ALG). These are-
  - London Councils' Committee (known as the Leaders' Committee)
  - London Councils' Grants Committee
  - London Council's Pensions CIV Sectoral Joint Committee
  - London Councils' Transport and Environment Committee
8. Additionally, the Council is also a member of the following joint committees:
  - Inner North East London Joint Health Overview and Scrutiny Committee
  - Joint Committee of the Six Growth Boroughs
  - London Housing Consortium
9. These Joint Committees shall have delegated authority to discharge the functions of the Council as per the terms of reference for these joint committees as set out in Part B of this Constitution.

## **Access to Information**

10. Access to information rules are contained in the Access to Information Procedure Rules in Part B of the Constitution.
11. If all the members of any joint Committee are Members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
12. If the joint Committee contains Members who are not on the Executive of any participating authority the access to information rules in Part V of the Local Government Act 1972 will apply.

## **Delegation to and from Other Local Authorities**

13. The Council or the Mayor or Executive or any officer delegated under the Council's Scheme of Delegation may delegate their powers and functions to another local authority or, in certain circumstances, the Executive of another local authority.
14. The decision whether or not to accept such a delegation from another local authority shall be for Council or the Mayor or Executive or officer delegated

under the Council's Scheme of Delegation as appropriate depending upon whether or not the powers or functions are the responsibility of the Executive.

### **Contracting Out**

15. The Mayor or Executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, providing there is no delegation of the Council's discretionary decision making.

### **Partnership Working – General Arrangements**

16. The Tower Hamlets Strategic Partnership brings together all of the key stakeholders in the borough – residents, the Mayor and Council, Police, the health service, other public services, voluntary and community groups, faith communities and businesses – with the aim of working together to improve the quality of life of people who live and work in the borough. The Council provides support for the administration of the Partnership but the Partnership is independent of the local authority.
17. The Partnership delivers its vision through The Tower Hamlets Plan 2018-23, which has the key objective - tackling inequality by building a strong, inclusive and fair borough – as well as four themes:
  - A better deal for children & young people – this is about ensuring young people are supported to build on their aspirations and achieve their full potential.
  - Good jobs and employment – this is about helping people be job ready by taking up the skills training available, as well as working with employers to make sure they have practises in place which support the community, through inclusive recruitment, responsible employment and fair access to jobs.
  - Strong, resilient and safe communities – this is about ensuring people are active, and reducing isolation and the fear of crime.
  - Better health and wellbeing – person-centred care, empowering people to live on their own independently. It's about improving the quality of life for our residents, tackling health inequalities and managing demand for services.
18. In order to deliver its vision, the Partnership will review and establish arrangements to support its operation including executive support, development and delivery of initiatives, engagement with stakeholders as well as performance management.

## 13 Officers of the Council

### Appointments

1. General. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
2. Chief Officers. The Council will engage persons for the following posts who will be designated chief officers:
  - Chief Executive (designated Head of Paid Service)
  - Corporate Director, Children and Culture
  - Corporate Director, Governance (designated Monitoring Officer)
  - Corporate Director, Health, Adults and Community
  - Corporate Director, Place
  - Corporate Director, Resources (designated Chief Finance Officer)
3. The above posts may be subject to change from time to time in which case this Constitution will be updated as soon as reasonably practicable to reflect any change in the designated chief officers.
4. **The Management Structure.** Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out below.

### Conduct

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

# TOWER HAMLETS COUNCIL CURRENT ORGANISATIONAL STRUCTURE

**Chief Executive  
Will Tuckley**

**Corporate Director,  
Resources  
Kevin Bartle (Interim)**

Interim Divisional Director, Finance, Procurement and Audit  
Kevin Bartle

Interim Head of Project Management Office  
Anthony Walters

Divisional Director, HR and Organisational Development  
Amanda Harcus

Divisional Director, IT  
Adrian Gorst

Interim Head of Business Support  
Steve Tinkler

Head of Revenues  
Roger Jones

Head of Benefits  
Steve Hill

Interim Divisional Director, Customer Services  
Teresa Heaney

Head of Internal Audit, Fraud and Risk  
Paul Rock

**Corporate Director,  
Place  
Ann Sutcliffe**

Divisional Director, Property and Major Programmes  
[Vacant]

Divisional Director, Growth & Economic Development  
Vicky Clark

Divisional Director, Housing  
Karen Swift

Divisional Director Planning and Building Control  
Jennifer Peters

Divisional Director, Public Realm  
Dan Jones

Head of Regeneration  
Sripriya Sudhaker

**Corporate Director, Health, Adults and Community  
Denise Radley**

Divisional Director, Adult Social Care  
Claudia Brown

Divisional Director, Community Safety  
Ann Corbett

Director of Public Health  
Somen Banerjee

Joint Director of Integrated Commissioning  
Warwick Tomsett

Town Hall Development Team

Tower Hamlets Homes  
Chief Executive  
Susmita Sen

**Corporate Director,  
Children & Culture  
James Thomas**

Divisional Director, Children's Social Care  
Richard Baldwin

Divisional Director, Education and Partnership

Divisional Director, Sports, Leisure and Culture  
Judith St. John

Divisional Director Youth and Children's Commissioning

**Corporate Director,  
Governance  
Vacant**

Divisional Director, Communications & Marketing  
Andreas Christophorou

Divisional Director, Strategy, Policy and Performance  
Sharon Godman

Divisional Director, Legal  
Janet Fasan

Superintendent Registrar  
Kathy Constantinou

Head of Electoral Services  
Robert Curtis

Head of Mayor's Office  
David Courcoux

Head of Information Governance  
Ruth Dowden

Head of Democratic Services  
Matthew Mannion



## **14 Finance, Contracts and Legal Matters**

### **Financial Management**

1. The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part C of this Constitution.

### **Contracts**

2. Every contract made by the Council shall be in writing and will comply with the Contracts Procedure Rules set out in Part C of this Constitution.

### **Legal Proceedings**

3. The Corporate Director, Governance is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider such action is necessary to protect the Council's interests. They may designate nominated officers to carry out this function on their behalf.

### **Authentication of Documents**

4. Where a document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Corporate Director, Governance or any person authorised by them, unless any enactment requires otherwise, or the Council has given requisite authority to some other person.
5. Contracts with a value exceeding £250,000 must either be signed by at least two officers of the authority. Subject to the provisions of Paragraph 7 below they may also be signed or under the common seal of the Council attested by at least one officer.
6. For the avoidance of doubt any document that is required to be signed, may be signed by any authorised person by any form of electronic signature.

### **Common Seal of the Council**

7. The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Director, Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Corporate Director, Governance generally requires all documents to be signed in accordance with the provisions of Paragraphs 4, 5 and 6 above, but has the discretion to require in certain circumstances that the Council's Common Seal will be affixed to some documents. The Common Seal will be affixed to those documents which in the opinion of the



Corporate Director, Governance should be sealed. The affixing of the Common Seal will be attested by the Corporate Director, Governance or some other person authorised by them. The Seal may be applied electronically.

### **Retention of Documents**

8. The Corporate Director, Governance may declare that any document required to be retained by the Council may be retained either jointly with a paper copy of such document, or in electronic format only.

## 15 Suspending, Interpreting and Changing the Constitution and Changes to Executive Arrangements

### Suspension of the Constitution

1. **Limit to Suspension.** The Rules specified below may be suspended by bodies indicated to the extent permitted within those Rules and the law.
2. **Procedure to Suspend.** A motion to suspend any Rules will not be moved without notice unless at least half ( $\frac{1}{2}$ ) of the voting members of the meeting in question are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution.
3. **Rules Capable of Suspension.** The following Rules may be suspended:
  - i. Council Procedure Rules (Council as well as Cabinet and all other Committees and Sub-committees to which Rule 23 of the Council Procedure Rules applies)
  - ii. Budget and Policy Framework Procedure Rules (Council)
  - iii. Overview and Scrutiny Procedure Rules (Overview and Scrutiny Committee)
  - iv. Any Committee / Body Procedure Rules listed in Part D.

### Interpretation

4. The ruling of the Speaker of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretations will have regard to the purposes of this Constitution contained Section 1.

### Publication

5. The Monitoring Officer will ensure (1) that the Constitution is published on the Council's website and that copies are available for inspection at the Town Hall; and (2) can be purchased by members of the local press and the public on payment of a reasonable fee.
6. The Monitoring Officer will ensure the Constitution is made available to all Members and citizens and is updated as necessary.
7. For the avoidance of doubt, where authority to make changes to any part of the constitution has been delegated to the Monitoring Officer, or any other officer and the change is not reported to the General Purposes Committee or

Council, the change will be published direct to the website via the officer decision portal.

### **Reviews of the Constitution**

8. The Officer scheme of delegation sets out the Monitoring Officer's responsibility for reviewing and maintaining an up to date Constitution.

### **Changes to the Constitution**

9. The Monitoring Officer can approve all non-material changes to the Constitution including those that reflect decisions taken by the Council or changes in legislation or to correct matters of fact;
10. The Monitoring Officer can recommend to Council or General Purposes Committee for approval any material changes to Parts A to C of the Constitution with the exception of the Executive Scheme of Delegation (Section 30) which will be amended by the Monitoring Officer should the Mayor amend his Executive Scheme of Delegation.
11. The introduction to Part D of the Constitution sets out the delegated authority to amend each Part D Section. Unless indicated otherwise, the Monitoring Officer has delegated authority to amend Part D documents in consultation with the Chief Executive.
12. All Sections of the Constitution remain in place unless explicitly revised or removed.

### **Change of Executive Arrangements**

13. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for a change to its Executive Arrangements.

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# Part B – Responsibility for Functions and Decision Making Procedures





# Part B – Responsibility for Functions and Decision Making Procedures

## Contents

Part B – Responsibility for Functions and Decision Making Procedures .....	47
16 Responsibility for Council Functions .....	48
17 Responsibility for Council Functions – Local Choice – Local Act Functions and Other Local Choice Functions .....	49
18 Responsibility for Executive Functions.....	50
19 Terms of Reference – Council and Committees .....	52
20 Terms of Reference – Other Bodies and Panels.....	83
21 Terms of Reference – Joint Committees.....	96
22 Terms of Reference – The Executive.....	111
23 Corporate Scheme of Delegation – The Chief Executive and Corporate Directors – Delegations.....	114
24 Functions of the Chief Executive and Corporate Directors.....	119
25 Statutory Officers .....	129
26 Council Procedure Rules .....	130
27 Access to Information Procedure Rules .....	159
28 Budget and Policy Framework Procedure.....	175
29 Executive Procedure Rules.....	184
30 Overview and Scrutiny Procedure Rules.....	194

## Version Control for Part B

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## 16 Responsibility for Council Functions

1. Local Authority Functions are split between Executive Functions which are the responsibility of the Mayor and Executive and then Non-Executive Functions which are the responsibility of Council and its Committees.
2. The functions derive from specific legislation and cannot be the responsibility of the Executive. The Council is required to set out where there are delegations of Council functions to Committees and officers. Where the delegation is to be exercised by a Committee/Officer, the matters reserved to the Committee are specified in the relevant Committee's functions and terms of reference set out in Section 19.
3. The 'Responsibility for Council Functions' Section 43 in Part D of the Constitution sets out the Council's agreed delegation of powers.
4. These functions derive from specific legislation. When changes to legislation require it, the Monitoring Officer will update the Council Functions' Section necessary.



## **17 Responsibility for Council Functions – Local Choice – Local Act Functions and Other Local Choice Functions**

1. Local Authority Functions are split between Executive Functions which are the responsibility of the Mayor and Executive and then Non-Executive Functions which are the responsibility of Council and its Committees.
2. This Section includes functions which the Council can choose to set as Executive or Non-Executive Functions. The Council is required to set out where there are delegations of Council functions to Committees and officers. Where the delegation is to be exercised by a Committee/Officer, the matters reserved to the Committee are specified in the relevant Committee's functions and terms of reference set out in Section 19.
3. The 'Responsibility for Council Functions – Local Choice – Local Act Functions and Other Local Choice Functions' Section 44 in Part D of the Constitution sets out the Council's agreed delegation of powers.
4. Any changes to whether these are Executive or Non-Executive functions must be agreed by Council.

## 18 Responsibility for Executive Functions

### General

1. The Executive is responsible for all functions of the authority that are not reserved to the Council by the law or by this Constitution.

### Executive Functions – Local Choice – Local Act Functions

2. None – the Council has determined that all local choice functions under a local Act other than a function specified or referred to in regulation 2 or schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) shall be allocated to the Council.

### 3. Executive Functions – Other Local Choice Functions

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	DELEGATION OF FUNCTION
<p>1. In relation to or in support of an Executive function only, the appointment of any individual</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than –</p> <ul style="list-style-type: none"> <li>• the authority;</li> <li>• a joint committee of two or more authorities; or</li> </ul> <p>(c) to any committee or sub-committee of such a body, and the revocation of any such appointment</p>	<p>As per paragraph 19 of Schedule 2 to the Local Authorities (Functions &amp; Responsibilities) Regulations 2000 (SI 2000/ 2853) as amended.</p>	<p>The Mayor, except that the Mayor may not appoint a Councillor to any paid position (including external bodies) other than that of Cabinet Member.</p> <p><b>NB:</b> This function in relation to or in support of a Council function, or in relation to any appointment of a Councillor to a paid position other than that of Cabinet Member, is allocated to the Council (see Part B Section 19)</p>

#### 4. Other Executive Functions

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	DELEGATION OF FUNCTION
1. Representing the Borough in Civil Protection and Emergency Planning matters under the Act.	Civil Contingencies Act 2004	Chief Executive or such persons as they delegate in their absence

#### Responsibility for Executive Functions

5. All executive functions of the Council are vested in the Mayor. The Mayor may exercise those functions themselves or may delegate specified executive functions to be exercised by the Cabinet meeting, a Cabinet committee, an individual Cabinet Member or an officer; or under the provisions of Section 236 of the Local Government and Public Involvement in Health Act 2007 only, by a ward councillor. The Mayor may revoke any such delegations at any time.
6. The Mayor will provide the Monitoring Officer with a list (“the Executive Scheme of Delegation”) setting out who of the following (not specified in the delegations contained in Paragraphs 3 and 4 above) are responsible for particular Executive functions.
  - The Mayor and Cabinet collectively; or
  - an individual Cabinet Member; or
  - a committee of the Cabinet; or
  - an officer; or
  - a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007; or
  - through joint arrangements.
7. If the Mayor amends the Executive Scheme of Delegation the Mayor must provide the Monitoring Officer with an updated scheme within five working days.
8. In the event that the Mayor wishes to delegate executive decision-making powers to an individual Cabinet Member or Members; or to a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007, they will first take advice from the Monitoring Officer as to the appropriate rules that will need to be in place to govern the exercise of such powers before they are so exercised.

## 19 Terms of Reference – Council and Committees

### **Council and Committees (including Sub-Committees and Boards of those Committees)**

1. The Council has established a number of Committees, Sub-Committees, Boards and Panels with delegation powers and/or responsibility for various functions of Council. Summary terms of reference are included below setting out the powers of each body. Where useful, more detailed procedures and processes are set out in Part D of the Constitution.
2. The Council has established the following bodies:
3. Council
4. Audit Committee
5. Appointments Sub-Committee
6. Children and Education Scrutiny Sub-Committee
7. Development Committee
8. Employee Appeals Sub-Committee
9. General Purposes Committee
10. Health and Adults Scrutiny Sub-Committee
11. Housing and Regeneration Scrutiny Sub-Committee
12. Licensing Committee
13. Licensing Sub-Committee
14. Overview and Scrutiny Committee
15. Pensions Committee
16. Strategic Development Committee
17. Standards Advisory Committee
18. Tower Hamlets Health and Wellbeing Board

**NB In the absence of any express statutory prohibition to the contrary, all Council bodies listed from 4 onwards may establish Sub-Committees pursuant to section 101 of the Local Government Act 1972 and/or may make specific delegations to officers.**

Where a Council Committee appoints a Sub-Committee under the above provision, the Committee shall appoint a Member to serve as Chair of the Sub-Committee. If the Committee does not do so, the Sub-Committee may appoint its own Chair from amongst the Members appointed by the Committee to the Sub-Committee. Each Committee, Sub-Committee may appoint a Vice-Chair from amongst its membership.

### 3. Council

<p><b>Summary Description:</b> The Council is responsible for all Non-Executive functions and for approving the budget and policy framework.</p> <p>The Council is responsible for a range of functions that it alone may carry out. These are listed below. The Council also provides a forum for questioning and debate with the Executive including the consideration of petitions as set out in the Council Procedure Rules.</p>	
<p><b>Membership:</b> All elected Members of the Authority and the Executive Mayor.</p>	
Functions	Delegation of Functions
<p><b>1. Constitutional Functions</b></p> <p>(a) All functions set out in Part A Section 7 of this Constitution</p> <p>(b) Adopting or amending the Council's Constitution</p> <p>(c) To hold a debate on a matter which is the subject of a petition containing 2,000 or more valid signatures in accordance with the Council's Petition Scheme</p> <p>(d) Budget and Policy Framework Functions</p> <p>(e) All functions relating to the adoption of the budget and policy framework, as set out in Part A Section 7</p> <p>(f) Taking decisions in respect of functions which are not in accordance with the policy and budget framework</p>	<p>Changes to the Constitution delegated to General Purposes Committee; changes to reflect a decision of the Council or a change in legislation; or to correct a matter of fact delegated to the Corporate Director, Governance</p>
<p><b>2. Committee Functions</b></p> <p>(a) Making arrangements for the discharge of Council functions by a Committee or officer under section 101(5) of the Local Government Act 1972; and</p> <p>(b) Making appointments under section 102 (appointment of Committees) of the 1972 Act</p>	<p>Appointments to committees:</p> <p>(a) General Purposes Committee</p> <p>(b) Corporate Director, Governance</p>
<p><b>3. Power to promote or oppose local or personal Bills</b></p> <p>(a) Pursuant to Section 239 of the Local Government Act 1972</p>	<p>None</p>
<p><b>4. Members' Allowance Scheme</b></p> <p>(a) Adopting an allowance scheme for the Mayor and Councillors or amending, revoking or replacing any such scheme</p>	<p>None</p>
<p><b>Quorum:</b> Twelve voting Members of Council</p>	
<p><b>Additional Information</b> is contained in:</p> <ul style="list-style-type: none"> <li>• Constitution Part B Section 26 Council Procedure Rules</li> <li>• Constitution Part B Section 28 Budget and Policy Framework Procedure</li> </ul>	

#### 4. Audit Committee

<b>Summary Description:</b>	
<p>1. The Audit Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.</p> <p>2. The purpose of the Audit Committee is to provide independent assurance to the Members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.</p>	
<b>Membership:</b> 8 Councillors. The Audit Committee shall not be chaired by a Member of the Executive.	
<b>Independent Person:</b> The Audit Committee may choose to appoint an Independent Person (IP) to advise and support the Committee. The IP will not be a member of the Audit Committee but would be entitled to attend all the meetings and associated training of the Committee. The IP can receive and comment on any reports submitted to the Committee, including restricted agenda items.	
<b>Functions</b>	<b>Delegation of Functions</b>
<u>Governance, Risk and Control</u>	None
1. To review the Council's corporate governance arrangements against the good governance framework, including the ethical framework and consider the local code of governance.	
2. To review the Annual Governance Statement (AGS) prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control.	None
3. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.	None
4. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.	None
5. To monitor the effective development and operation of risk management in the Council.	None
6. To monitor progress in addressing risk-related issues reported to the committee.	None
7. To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.	None
8. To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.	None

9. To monitor the counter-fraud strategy, actions and resources.	None
10. To review the governance and assurance arrangements for significant partnerships or collaborations.	None
<u>Internal audit</u>	None
11. To approve the internal audit charter.	
12. To review proposals made in relation to the appointment of external providers of internal audit services.	None
13. To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.	None
14. To approve significant interim changes to the risk-based internal audit plan and resource requirements.	None
15. To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.	None
16. To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Head of Internal Audit. To approve and periodically review safeguards to limit such impairments.	None
17. To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include: <ul style="list-style-type: none"> <li>a. Updates on the work of internal audit including key findings, issues of concern and management actions as a result of internal audit work.</li> <li>b. Regular reports on the results of the Quality Assurance and Improvement Programme (QAIP).</li> <li>c. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and the associated Local Government Application Note (LGAN) published by the Chartered Institute of Public Finance and Accountancy (CIPFA) considering whether the non-conformance is significant enough that it must be included in the AGS.</li> </ul>	None
18. To consider the Head of Internal Audit's annual report, including: <ul style="list-style-type: none"> <li>a. The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement.</li> <li>b. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the</li> </ul>	None

committee in reviewing the AGS.	
19.To consider summaries of specific internal audit reports as requested.	None
20.To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.	None
21.To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every five years.	None
22.To consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations.	None
23.To provide free and unfettered access to the Audit Committee chair for the Head of Internal Audit, including the opportunity for a private meeting with the committee.	None
24.To commission work from internal audit.	None
<u>External audit</u>	None
25.To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments (PSAA) or the authority's auditor panel as appropriate.	
26.To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.	None
27.To consider specific reports as agreed with the external auditor.	None
28.To comment on the scope and depth of external audit work and to ensure it gives value for money.	None
29.To commission work from external audit.	None
30.To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.	None
<u>Financial reporting</u>	None
31.To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	
32.To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.	None
<u>Accountability arrangements</u>	None
33.To report to those charged with governance on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.	
34.To report to full Council on a regular basis on the committee's	None



performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.	
35. To publish an annual report on the work of the committee.	None
<b>Quorum:</b> 3 Members of the Committee	

## 5. Appointments Sub-Committee

<b>Summary Description:</b> Ad-hoc Sub-Committee of the General Purposes Committee which meets to determine senior officer appointments.	
<b>Membership:</b> Membership will be selected afresh for each appointment process and will consist of (i) Four Members selected by the Leader of the Labour Group, at least one of whom must be the Mayor or member of the Executive and (ii) One Member selected by the Leader of the Conservative Group.	
<b>Functions</b>	<b>Delegation of Functions</b>
<ol style="list-style-type: none"> <li>1. To determine Chief Officer and Deputy Chief Officer appointments. <ul style="list-style-type: none"> <li>•</li> </ul> </li> </ol>	None
<b>Quorum:</b> Any three Members of the Sub-Committee	

## 6 Children and Education Scrutiny Sub-Committee

<p><b>Summary Description:</b> The Children and Education Scrutiny Sub-Committee has been established to scrutinise the provision, planning and management of children and young people’s services – including children’s social care; safeguarding children; children in care; SEN and education inclusion, troubled families and the Youth Offending Service (YOS) education, learning and schools; youth services; early years; education capital estate and youth &amp; play services.</p>	
<p><b>Membership:</b> 6 non-executive councillors – the chair and five councillors; and 6 co-opted members (consisting of: - a Church of England and a Roman Catholic representative; 3 Parent Governor representatives under paragraph 7 of Schedule A1 to the Local Government Act 2000; and a Muslim faith representative).</p>	
<p><b>Functions</b></p>	<p><b>Delegation of Functions</b></p>
<p>1. Reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of the Council’s children social care and education functions;</p>	<p>None</p>
<p>2. Advising the Mayor or Cabinet of key issues/questions arising in relation to children and education reports due to be considered by the Mayor or Cabinet;</p>	<p>None</p>
<p>3. Making reports and/or recommendations to the Council and/or Mayor or Cabinet in connection with the discharge of children and education functions;</p>	<p>None</p>
<p>4. Delivering (3) by organising an annual work programme, drawing on the knowledge and priorities of the Council, registered providers and other stakeholders, that will identify relevant topics or issues that can be properly scrutinised;</p>	<p>None</p>
<p>5. Holding service providers to account, where recent performance fails to meet the recognised standard, by looking at relevant evidence and make recommendations for service improvements;</p>	<p>None</p>
<p>6. Considering children and education matters affecting the area or its inhabitants, including where these matters have been brought to the attention of the sub-committee by tenant and resident associations, or members of the general public; and</p>	<p>None</p>
<p>7. The sub-committee will report annually to the Overview and Scrutiny Committee on its work.</p>	<p>None</p>
<p><b>Quorum:</b> Three voting Members</p>	
<p><b>Additional Information:</b> Is contained in:</p> <ul style="list-style-type: none"> <li>• Constitution Part A Section 9 (Overview and Scrutiny)</li> <li>• Constitution Part B Section 30 (Overview and Scrutiny Procedure Rules)</li> <li>• Constitution Part D Section 53 (Children and Education Scrutiny Sub-Committee Procedure Rules)</li> </ul>	

## 7. Development Committee

**Summary Description:** To determine applications for planning permission and listed building consent which have triggered over 20 representations (for or against) and/or that meet certain criteria with regards to size amongst other issues. Note that certain applications exceed the remit of the Development Committee and these are considered by the Strategic Development Committee.

**Membership:** 7 Councillors (each political group may appoint up to 3 substitutes).

### Functions

### Delegation of Functions

#### 1. Applications for planning permission

- A.** To consider and determine recommendations from the Corporate Director, Place to **GRANT** planning permission for applications made under the Town and Country Planning Act 1990 (as amended); that meet any one of the following criteria:
- (i) Proposals involving the erection, alteration or change of use of buildings, structures or land with more than 35 residential units or live-work units.
  - (ii) Proposals involving the erection, alteration or change of use of buildings, structures or land with a gross floor space exceeding 10,000 square metres.
  - (iii) Retail development with a gross floor space exceeding 5,000 square metres.
  - (iv) Proposals involving buildings on Metropolitan Open Land with a gross floor space exceeding 100 square metres.
  - (v) If in response to the publicity of an application the Council receives in writing, by email or other electronic form 20 or more individual representations; or a petition (received from residents of the borough whose names appear in the Register of Electors, business addresses in the borough or local Councillors) raising material planning objections to the development, and the Corporate Director, Place considers that these objections cannot be addressed by amending the development, by imposing conditions and/or by completing a legal agreement. Representations (either individual or petitions) received after the close of the consultation period will be counted at the discretion of the Corporate Director, Place.

The Corporate Director, Place (or any officer authorised by her/him) has the authority to make decisions on planning matters with the exception of those specifically reserved to the Development Committee, unless:-

- (i) these are expressly delegated to her/him; or
- (ii) where it is referred to the Committee in accordance with Development Procedure Rule No 15

- B.** To consider and determine recommendations from the

<p>Corporate Director, Place to <b>REFUSE</b> planning permission for applications made under the Town and Country Planning Act 1990 (as amended), where in response to the publicity of an application the Council has received in writing, by email or other electronic form, more 20 or more individual representations supporting the development or a petition in the form detailed in part 1.A. (v) supporting the proposed development. Representations (either individual or petitions) received after the close of the consultation period will be counted at the discretion of the Corporate Director, Place.</p> <p><b>C.</b> To consider and determine recommendations from the Corporate Director of Place to <b>GRANT</b> permission for applications seeking minor material amendments to a planning permission previously determined by the Development Committee, where as a result of publicity any of the criteria in 1.A.(v) apply and the representations received relate directly to matters arising from the proposed amendments and not the original permission.</p>	
<p><b>2. Applications for listed building consent</b></p> <p>To consider and determine recommendations from the Corporate Director, Place to <b>GRANT</b> listed building consent for applications made under the Planning (Listed Buildings and Conservation Areas) Act 1990 where any of the criteria in 1.A.(i)-(v) apply; and/or an objection has been received from either the <b>Historic Buildings and Monuments Commission for England</b> (known as Historic England) and/or one of the <b>statutory amenity societies</b> and these objections cannot be addressed by amending the development, by imposing conditions and/or by completing a legal agreement.</p>	<p>As above including to refuse listed building consent.</p>
<p><b>3. Applications for hazardous substance consent</b></p> <p>To consider and determine recommendations from the Corporate Director, Place to <b>GRANT</b> hazardous substance consent for applications made under the Planning (Hazardous Substances) Regulations 2015 where the criteria in 1.A(v) apply and/or an objection has been received from <b>any of the consultation bodies listed in the Regulations</b> and these objections cannot be addressed by amending the development, by imposing conditions and/or by completing a legal agreement.</p>	<p>As above including to refuse hazardous substance consent.</p>
<p><b>4. Observations to other planning authorities</b></p> <p>To respond to requests for observations on planning applications referred to the Council by other local authorities, Development Corporations the Mayor of London, Government</p>	<p>As above</p>

<p>Departments statutory undertakers and similar organisations where the response would be contrary to policies in the adopted development plan or would raise especially significant borough-wide issues.</p>	
<p><b>5. General</b></p> <p>A. To consider any application or other planning matter referred to the Committee by the Corporate Director, Place including pre-application presentations (subject to the agreed protocol) where she/he considers it appropriate to do so (for example, if especially significant borough-wide issues are raised).</p> <p>B. To consider any matter which would otherwise be referred to the Strategic Development Committee but which the Corporate Director, Place, following consultation with the Chairs of both Committees, considers should more appropriately be considered by the Development Committee.</p>	<p>None</p>
<p>Note - It shall be for the Corporate Director, Place to determine whether a matter meets any of the above criteria</p>	
<p><b>Quorum:</b> 3 Members of the Committee</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>• Constitution Part C Section 35 (Planning Code of Conduct)</li> <li>• Constitution Part D Section 53 (Guidelines for Determining Planning Applications under the Town and Country Planning Act 1990)</li> <li>• Constitution Part D Section 53 (Development Committee Procedure Rules)</li> </ul>	

## 8. Employee Appeals Sub-Committee

**Summary Description:** An Ad-hoc Sub-Committee of the General Purposes Committee which meets to determine appeals by employees under human resources procedures requiring a member level decision such as appeals against dismissal.

**Membership:** A panel of three members will be appointed on an ad-hoc basis for each employee appeal from a pool of all Members and Substitutes of the General Purposes Committee.

<b>Functions</b>	<b>Delegation of Functions</b>
<ol style="list-style-type: none"> <li>1. To determine appeals by employees requiring a Member level decision.               <ul style="list-style-type: none"> <li>•</li> </ul> </li> </ol>	None

**Quorum:** Any three Members of the Sub-Committee

## 9. General Purposes Committee

<b>Summary Description:</b> The Committee is responsible for a range of non-executive functions including matters such as; electoral matters, personnel issues and byelaws, that have not been delegated to other Committees.	
<b>Membership:</b> 9 Councillors	
<b>Functions</b>	<b>Delegation of Functions</b>
This Committee is responsible for a range of non-executive functions, including electoral matters, personnel issues and appeals. It also has responsibility for considering and making recommendations to Full Council on the introduction, amendment or revocation of new byelaws and can consider and make non-material changes to the Council's Constitution	-
1. To exercise powers in relation to the holding of elections and the maintenance of the electoral register including: <b>(a)</b> the provision of assistance at European Parliamentary elections; <b>(b)</b> power to make submissions to the Local Government Commission in relation to the boundaries of the borough or ward boundaries; and <b>(c)</b> the appointment of a proper officer for the purposes of giving various notices in relation to elections and referenda (e.g. in relation to the verification number for petitions for a referendum under Local Government Act 2000).	None
2. Appointments of officers, Members or other persons to external bodies on behalf of the Council, where the appointment is not the responsibility of the Mayor	The Monitoring Officer is authorised to make or amend Committee/ Sub-committee appointments in accordance with Section 24 of this Constitution
3. To recommend to Council the introduction, amendment or revocation of byelaws	None
4. Appointment and revocation of local authority school governors	None
5. To make changes to the membership and substitute membership of committees appointed by the Council and their subordinate bodies, consistent with the proportionality rules	The Monitoring Officer is authorised to make or amend Committee/ Sub-committee



	appointments in accordance with Section 24 of this Constitution
6. To consider and make changes to the Council's Constitution upon the recommendation of the Monitoring Officer	
7. To determine major policy on the terms and conditions on which staff hold office within allocated resources	
8. To agree any negotiated settlement, in relation to a senior executive in circumstances which do not amount to a dismissal that may be proposed in accordance with the Council's Pay Policy Statement	
9. To determine the criteria for the appointment of the Head of Paid Service and other statutory and non-statutory chief officers and deputy chief officers and to establish Appointments Sub-Committees to consider such appointments	The Monitoring Officer and the Divisional Director, Human Resources are authorised to appoint members to Appointment Sub-Committees in line with the Governance Directorate Scheme of Delegation in Part D of the Constitution
10. To make recommendations to Full Council on the appointment of the Head of Paid Service	
11. To establish a Sub-Committee to consider any proposal to discipline and/or dismiss the Head of the Paid Service, the Monitoring Officer or the Chief Financial Officer in accordance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution and to appoint a minimum of two (2) 'Independent Persons' to such Sub-Committee	The Monitoring Officer is authorised to make or amend Committee/ Sub-committee/ Panel appointments in accordance with Section 24 of this Constitution.
12. To consider and determine any appeal in respect of any function for which the Council is responsible (except where statutory arrangements exist or where the appeal function is delegated elsewhere in the Constitution) including: <b>(a)</b> Education awards appeals; <b>(b)</b> Appeals by governing bodies; <b>(c)</b> Appeals by employees under human resources procedures requiring a Member level decision; and	

<p>13. Appeals in respect of refusals to register premises under the Marriage Act 1994 or the attachment of any condition to an approval</p>	
<p>14. To establish Employee Appeals Sub-Committees and other Appeals Sub-Committees as appropriate to be convened by the Corporate Director, Law, Probity and Governance for determination of the above appeals referred to in paragraph 12 above. Such Sub-Committees to comprise a maximum of five (5) Members of the Council with a quorum of three (3) and as far as possible to reflect ethnicity and gender balance</p>	<p>The Monitoring Officer is authorised to make or amend Committee/ Sub-committee appointments in accordance with Section 24 of this Constitution.</p> <p>The Divisional Director of Human Resources is authorised to appoint Members to Employee Appeals Sub-Committees in line with the Governance Directorate Scheme of Delegation as set out in Part D of the Constitution</p>
<p>15. Any other functions which under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, may not be the responsibility of the Executive and which are not delegated elsewhere under this Constitution</p> <ul style="list-style-type: none"> <li>•</li> </ul>	<p>None</p>
<p>16. In cases of emergency or extreme urgency any non-executive function delegated under this Constitution whether or not reserved to the Council and where the Chief Executive does not consider it appropriate to exercise his/ her power in relation to such decisions under Part B Section 24 of this Constitution</p>	<p>None</p>
<p><b>Quorum:</b> 3 Members of the Committee</p>	

## 10. Health and Adults Scrutiny Sub-Committee

<p><b>Summary Description:</b> The Health and Adults Scrutiny Sub-Committee has been established to undertake the Council's responsibilities in respect of Scrutinising local health services and adult social care, covering services provided by the Council as well as those provided by the Council's partners.</p>	
<p><b>Membership:</b> 6 non-executive councillors – the chair and five councillors.</p> <p>Two non-voting Co-Optees may also be appointed.</p>	
<b>Functions</b>	<b>Delegation of Functions</b>
1. Reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of the Council's health and adult social care functions	None
2. Advising the Mayor or Cabinet of key issues/questions arising in relation to health and adult social care reports due to be considered by the Mayor or Cabinet	None
3. Making reports and/or recommendations to the Council and/or Mayor or Cabinet in connection with the discharge of health and adult social care functions	None
4. Delivering (3) by organising an annual work programme, drawing on the knowledge and priorities of the Council, registered providers and other stakeholders, that will identify relevant topics or issues that can be properly scrutinised	None
5. Holding service providers to account, where recent performance fails to meet the recognised standard, by looking at relevant evidence and make recommendations for service improvements	None
6. Considering health and adult social care matters affecting the area or its inhabitants, including where these matters have been brought to the attention of the sub-committee by tenant and resident associations, or members of the general public	None
7. The sub-committee will report annually to the Overview and Scrutiny Committee on its work	None
8. To discharge the Council's Scrutiny functions under the National Health Service Act 2006 and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013. Including to: <ul style="list-style-type: none"> <li>• Review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;</li> <li>• Respond to consultation exercises undertaken by an NHS body; and</li> <li>• Question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of services.</li> </ul>	None
<p><b>Quorum:</b> Three voting Members</p>	
<p><b>Additional Information:</b> Is contained in:</p> <ul style="list-style-type: none"> <li>• Constitution Part A Section 9 (Overview and Scrutiny)</li> <li>• Constitution Part B Section 30 (Overview and Scrutiny Procedure Rules)</li> </ul>	

- Constitution Part D Section 53 (Health and Adults Sub-Committee Procedure Rules)

## 11. Housing and Regeneration Scrutiny Sub-Committee

<p><b>Summary Description:</b> The Housing and Regeneration Scrutiny Sub-Committee will undertake overview and scrutiny pertaining to housing management and planning matters, as well as regeneration strategy and sustainability, including economic development, regeneration and inequality; and employment strategy and initiatives and skills development.</p>	
<p><b>Membership:</b> 6 non-executive councillors – the chair and five councillors</p> <p>Two non-voting Co-Optees may also be appointed,</p>	
<p><b>Functions</b></p>	<p><b>Delegation of Functions</b></p>
<p>1. Reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of the Council’s housing and regeneration functions;</p>	<p>None</p>
<p>2. Advising the Mayor or Cabinet of key issues/questions arising in relation to housing and regeneration reports due to be considered by the Mayor or Cabinet;</p>	<p>None</p>
<p>3. Making reports and/or recommendations to the Council and/or Mayor or Cabinet in connection with the discharge of housing and regeneration functions;</p>	<p>None</p>
<p>4. Delivering (3) by organising an annual work programme, drawing on the knowledge and priorities of the Council, registered providers and other stakeholders, that will identify relevant topics or issues that can be properly scrutinised;</p>	<p>None</p>
<p>5. Holding service providers to account, where recent performance fails to meet the recognised standard, by looking at relevant evidence and make recommendations for service improvements;</p>	<p>None</p>
<p>6. Considering housing and regeneration matters affecting the area or its inhabitants, including where these matters have been brought to the attention of the sub-committee by tenant and resident associations, or members of the general public; and</p>	<p>None</p>
<p>7. The sub-committee will report annually to the Overview and Scrutiny Committee on its work.</p>	<p>None</p>
<p><b>Quorum:</b> Three voting Members</p>	
<p><b>Additional Information:</b> Is contained in:</p> <ul style="list-style-type: none"> <li>• Constitution Part A Section 9 (Overview and Scrutiny)</li> <li>• Constitution Part B Section 30 (Overview and Scrutiny Procedure Rules)</li> <li>• Constitution Part D Section 53 (Housing and Regeneration Scrutiny Sub-Committee Procedure Rules)</li> </ul>	

## 12. Licensing Committee

**Summary Description:** The Committee is responsible for discharging the licensing functions of the council including determining Licensing policy/procedure (excluding the Council's statement of policy) as well as licensing fees and charges.

The Licensing Committees will appoint a Sub-Committee to undertake the determination of many functions such as the review and approval of alcohol licence applications.

**Membership:** 15 Members of the Council. No substitute members may be appointed for this committee

Functions	Delegation of Functions
<p>1. To oversee the discharge of all licensing functions of the Council as the licensing authority under the Licensing Act 2003 and the Gambling Act 2005, except the determination of the Council's Statement of Licensing Policy and the publication of that Statement under either Act</p>	<p>The Corporate Director, Place (or any officer authorised by them) has the authority to consider and determine any applications for licences not specifically reserved to the Licensing Committee by these terms of reference</p>
<p>2. To establish Sub-Committees to consider and determine matters under the Licensing Act 2003 regarding personal licences, premises licences, club premises certificates, provisional statements, variation of the designated premises supervisor, interim authorities, objections to temporary event notices and any applications requiring a hearing under the Licensing Act 2003 and to determine matters under the Gambling Act 2005 regarding premises licenses, provisional statements, variations of premises licenses, transfers of premises licenses, reviews of premises licenses and any applications requiring a hearing under the Act</p>	<p>The Corporate Director, Place (or any officer authorised by them) has the authority to consider and determine all applications for licences where no objections have been received or the objections have been withdrawn within the appropriate time frame</p>
<p>3. To consider the Council's statement of licensing policy under either the Licensing Act 2003 or the Gambling Act 2005</p>	<p>None</p>
<p>4. To resolve not to issue a casino premises licence pursuant to section 166 Gambling Act 2005</p>	<p>None</p>
<p>5. To consider and determine matters under Section 2 of and Schedule 3 to the Local Government (Miscellaneous Provisions) Act</p>	<p>The Corporate Director, Place (or any officer authorised by them) has</p>

1982 (as amended) regarding the control of sex establishments within the Borough	the authority to consider and determine all applications for licences where no objections have been received or the objections have been withdrawn within the appropriate time frame
6. To consider and determine matters under London Local Authorities Act 1991 in respect of premises providing or wishing to provide special treatments within the borough where objections have been received and not withdrawn	The Corporate Director, Place (or any officer authorised by them) has the authority to consider and determine all applications for licences where no objections have been received or the objections have been withdrawn within the appropriate time frame
7. To consider and determine all other Licensing and Registration Functions not specified in 1 to 6 above and which are set out in Section 16; Local Choice, Local Act Functions which are set out in Section 17 of the Constitution; and Other Local Choice Functions which are set out in Section 17 of the Constitution where the Function has been specifically delegated to the Licensing Committee	The Corporate Director, Place (or any officer authorised by them) has the authority to consider and determine all applications for licences where no objections have been received or the objections have been withdrawn within the appropriate time frame
8. To determine fees and charges for the issue, approval, consent, licence, permit or other registration in respect of Licensing and Registration Functions as set out in Section 16; Local Choice, Local Act Functions which are set out in Part Section 17 of the Constitution; and Other Local Choice Functions which are set out in Section 17 of the Constitution for which the Committee has responsibility	The Corporate Director, Place (or any officer authorised by them) has the authority to determine fees for premises licences in respect of gambling
<b>Quorum:</b> 3 Members of the Committee	
<b>Additional Information:</b> <ul style="list-style-type: none"> <li>• Constitution Part C, Section 34 (Licensing Code of Conduct)</li> <li>• Licensing procedure rules Part D Section 53</li> </ul>	

### 13 Licensing Sub-Committee

<p><b>Summary Description:</b> This sub-committee of the Licensing Committee meets to determine a number of licensing matters such as to grant, review or vary a license submitted under the Licensing Act 2003.</p>	
<p><b>Membership:</b> The membership for each individual meeting is made up of any three Member of the Licensing Committee.</p>	
<p><b>Functions</b> The Sub Committee(s) shall consider applications submitted in accordance with the requirements of the Licensing Act 2003, including:</p>	<p><b>Delegation of Functions</b></p>
<p>1. Determination of applications for a premises licence where representations have been made (Section 18(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>2. Determination of applications for provisional statements where representations have been made (Section 31(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>3. Determination of applications to vary a premises licence where representations have been made (Section 35(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>4. Determination of applications to vary a premises licence to specify an individual as premises supervisor following police objection (Section 39(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>5. Determination of applications for transfer of a premises licence following police objection (Section 44(5) of the Licensing Act 2003)</p>	<p>None</p>
<p>6. Consideration of police objection made to interim authority notice (Section 48(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>7. Determination of applications for a review of a premises licence (Section 52(2) of the Licensing Act 2003)</p>	<p>None</p>
<p>8. Determination of interim steps pending summary review (Section 53A(2)(a) or 53B Licensing Act 2003)</p>	<p>None</p>
<p>9. Determination of applications for club premises certificate where representations have been made (Section 72(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>10. Determination of applications to vary a club premises certificate where representations have been made (Section 85(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>11. Determination of applications for review of a club premises certificate (Section 88(3) of the Licensing Act 2003)</p>	<p>None</p>
<p>12. Determination of counter notice following objection to a temporary event notice (Section 105(2) of the Licensing Act 2003)</p>	<p>None</p>



13. Determination of applications for grant of a personal licence following police objection (Section 120(7) of the Licensing Act 2003)	None
14. Determination of personal licence where convictions come to light after the grant or renewal of the personal licence (Section 124(4) of the Licensing Act 2003)	None
15. Determination of the review of a premises licence following a closure order (Section 167(5) of the Licensing Act 2003)	None
<b>Quorum:</b> 3 Members of the Sub-Committee	
<b>Additional Information:</b> <ul style="list-style-type: none"> <li>• Constitution Part C, Section 34 (Licensing Code of Conduct)</li> <li>• Licensing procedure rules Part D Section 53</li> </ul>	

## 14. Overview and Scrutiny Committee

**Summary Description:** The Council will appoint an Overview and Scrutiny Committee to discharge the functions:

1. to review or scrutinise decisions made in connection with the discharge of Executive functions;
2. to make reports or recommendations to the Council or Cabinet with respect to the discharge of Executive functions;
3. to review or scrutinise decisions made in connection with the discharge of non-executive functions; and
4. to make reports or recommendations to the Council or to Cabinet on matters affecting the Council's area or its citizens.
5. Grants scrutiny will be the responsibility of the OSC committee, under the remit of the Scrutiny Lead for Resources.

The aim is to make the decision-making process more transparent, accountable and inclusive, and improve services for people by being responsive to their needs.

**Membership:** 9 non-executive councillors – including the chair and leads from Sub Committees.

Two non-voting Co-Optees may also be appointed.

Functions	Delegation of Functions
1. To discharge the functions conferred by sections 9F to 9FI of the Local Government Act 2000; or any functions which may be conferred on it by virtue of regulations under <a href="#">section 244(2ZE)</a> of the National Health Service Act 2006 (local authority scrutiny of health matters) in accordance with the arrangements specified for the discharge of the Overview and Scrutiny function and the establishment of an Overview and Scrutiny Committee contained within Sections 9 and 30 of the Constitution	None
2. Reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of the Council's functions	None
3. Advising the Mayor or Cabinet of key issues/questions arising in relation to reports due to be considered by the Mayor or Cabinet	None
4. Making reports and/or recommendations to the Council and/or Mayor or Cabinet in connection with the discharge of its functions	None
5. Delivering (3) by organising an annual work programme, drawing on the knowledge and priorities of the Council, registered providers and other stakeholders, that will identify relevant topics or issues that can be properly scrutinised	None
6. Holding service providers to account, where recent performance fails to meet the recognised standard, by looking at relevant evidence and make recommendations for service improvements	None
7. Considering strategic matters affecting the area or its inhabitants, including where these matters have been brought	None

to the attention of the sub-committee by tenant and resident associations, or members of the general public	
<p><b>8.</b> In accordance with the Council's Petition Scheme:</p> <p><b>(a)</b> To require a Chief Officer to give evidence to the Committee on a matter that is the subject of a petition including 1,000 or more valid signatures (the Committee will also invite the relevant Executive Member to the meeting); and</p> <p><b>(b)</b> To undertake a review if a petition organiser feels the authority's response to their petition was inadequate</p>	None
<b>9.</b> On behalf of the Council to establish and make appointments to any joint overview and scrutiny committee	None
<b>10.</b> To consider any local government matter referred to the Committee by a Councillor in accordance with Section 9FC(c) of the Local Government Act 2000 which is not relevant to the functions of the committee and is not an excluded matter.	None
<b>Quorum:</b> Three members of the Committee	
<p><b>Additional Information:</b> Is contained in:</p> <ul style="list-style-type: none"> <li>• Constitution Part A Section 9 (Overview and Scrutiny)</li> <li>• Constitution Part B Section 30 (Overview and Scrutiny Rules)</li> </ul>	

## 15. Pensions Committee

<b>Summary Description:</b> To consider pension matters and meet the obligations and the duties of the Council under the Superannuation Act 1972 and the various statutory requirements in respect of investment matters.	
<b>Membership:</b> 7 Councillors; plus 1 representative of the Admitted Bodies and 1 Trade Union representative. The Admitted Body and Trade Union representatives will be non-voting members of the Committee.	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To consider pension matters and meet the obligations and the duties of the Council under the Superannuation Act 1972, and the various statutory requirements in respect of investment matters	None
<b>Quorum:</b> 3 Members of the Committee	
<b>Additional Information:</b>	
<ul style="list-style-type: none"> <li>• Constitution Part D, Section 53 (Pensions Committee Meeting Procedure Rules)</li> </ul>	

## 16. Strategic Development Committee

<b>Summary Description:</b> To determine larger-scale major or strategic planning matters, within and exceeding the remit of the Development Committee in terms of size and scale amongst other issues.	
<b>Membership:</b> 8 Councillors	
<b>Functions</b>	<b>Delegation of Functions</b>
<p>1. To consider any matter listed within the terms of reference of the Development Committee (including minor material amendments and observations to neighbouring authorities and the Mayor of London) where any one of the following applies:</p> <ul style="list-style-type: none"> <li>(a) Applications for buildings exceeding 30 metres in height (25 metres on sites adjacent to the River Thames)</li> <li>(b) Applications for residential development with more than 500 residential units, or on sites exceeding 10 hectares in area</li> <li>(c) Applications for employment floor space on sites of more than 4 hectares</li> <li>(d) Major infrastructure developments</li> <li>(e) Applications not in accordance with the development plan involving more than 150 residential units or a gross floor space exceeding 2,500 square metres</li> <li>(f) Applications on Metropolitan Open Land involving buildings with a gross floor space exceeding 1000 square metres</li> <li>(g) Applications for developments including 200 or more car parking spaces</li> <li>(h) Legal proceedings in relation to the matter are in existence or in contemplation</li> <li>(i) Three or more members of the Development Committee are disqualified in some way from participating in the decision</li> <li>(j) On an exceptional basis, the Development Committee has decided that a particular application should stand referred to the Strategic Development Committee</li> <li>(k) To consider any application or other planning matter, including pre-application presentations (subject to the agreed protocol) referred to the Committee by the Corporate Director, Place where they consider it appropriate to do so (for example, if especially significant strategic issues are raised)</li> </ul>	None
<b>Note:</b> It shall be for the Corporate Director, Place to determine whether a matter meets any of the above criteria	
<b>Quorum:</b> 3 Members of the Committee	
<b>Additional Information:</b> Constitution Part C Section 35 (Planning Code of Conduct)	

## 17. Standards Advisory Committee

**Summary Description:** The Committee performs a number of functions to maintain high standards of conduct in public life including promoting the Members Code of Conduct and considering potential breaches of the Code of Conduct.

The Committee may establish Sub-Committees to consider certain matters as set out in the 'Functions' below.

The Committee and any of its sub-committees may meet in private in accordance with relevant legislation as advised by the Monitoring Officer. Any meeting or part of a meeting that considers whether or not a complaint should be referred for investigation or, following an investigation should proceed to hearing, shall be held in private and all papers relating to that consideration shall remain confidential.

**Membership:** 5 elected members of the Council (not including the Mayor or more than 1 Cabinet member),

### Co-opted Members

Plus up to 5 independent co-opted members.

Co-opted members will be entitled to vote at meetings under the provisions of section 13(4)(e) of the Local Government and Housing Act 1989. The Standards Advisory Committee (SAC) shall be chaired by an independent co-opted member.

Independent Co-opted members shall be appointed by full Council on the recommendation of the Monitoring Officer. The term of appointment shall be 4 years unless otherwise determined by Council. Co-opted members may serve as many terms of appointment as the Council considers appropriate.

### Note – Independent Persons

The Council has appointed two statutory Independent Persons to assist in dealing with complaints of alleged breach of the Code of Conduct for Members under section 28(7) of the Localism Act 2011. They are not co-opted member of the SAC but may attend and observe any meeting of the Committee or a sub-committee established by it.

Functions	Delegation of Functions
<p>Full details are set out in the Committee's Procedures in Part D of the Constitution, but in summary:</p> <ol style="list-style-type: none"> <li>1. Promoting and maintaining high standards of conduct by the Mayor, councillors and co-opted members of the Council.</li> <li>2. Advising the Council on the adoption or revision of the Code of Conduct for Members.</li> </ol>	<p>None</p>

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>3. To monitor and advise the Council about the operation of the Code of Conduct for Members in light of best practice and changes in the law.</li> <li>4. Advising, training or arranging to train the Mayor, councillors and co-opted members on matters relating to ethics and probity and the Code of Conduct.</li> <li>5. To appoint sub-committees for the purpose of discharging any of the Committee's functions including the consideration and determination of complaints of breach of the code of Conduct for Members.</li> <li>6. As requested by the Monitoring Officer, to establish a Dispensations Sub-Committee to advise on any applications for dispensations in relation to participation at a meeting by a member with a Disclosable Pecuniary Interest.</li> <li>7. To deal with any reports from the Monitoring Officer on any matter relating to standards of conduct.</li> <li>8. Other functions relating to the standards of conduct of members under any relevant statutory provision or otherwise.</li> </ol> |  |
|---|--|

**Quorum:** A meeting of the Standards Advisory Committee or one of its sub-committees shall only be quorate where at least three members of the Committee or Sub-Committee are present for its duration and such quorum must include at least one councillor and at least one independent co-opted member.

**Additional Information:**

- Constitution Part A, Section 11 (The Standards Advisory Committee and the Code of Conduct for Members)
- Constitution Part C, Section 31 (The Code of Conduct for Members)
- Constitution Part D, Section 53 (Standards Advisory Committee Procedures)

## 18. Tower Hamlets Health and Wellbeing Board

**Summary Description:** The Health and Wellbeing Board will lead, steer and advise on strategies to improve the health and wellbeing of the population of Tower Hamlets. It will seek to do this through joint work across services in the Borough and the greater integration of health and social care as well as with those accessing services that can help to address the wider determinants of Health. The Board continues to support the ambitions of the Tower Hamlets Partnership outlined within the Tower Hamlets Community Plan.

**Membership:** The membership of the Board is as follows:

Chair

- Cabinet Member for Adults, Health and Wellbeing (LBTH)

Vice Chair

- Representative of NHS Tower Hamlets Clinical Commissioning Group (CCG)

Elected Representatives of LBTH

- Cabinet Member for Education & Children's Services
- Cabinet Member for Housing Management and Performance
- Cabinet Member for Resources
- Non-executive majority group councillor nominated by Council

Local Authority Officers - LBTH

- Director, Public Health
- Corporate Director, Children and Culture
- Corporate Director, Health, Adults and Community

Plus Membership from Healthwatch and the NHS.

Co-opted (non-voting) Members include:

- Corporate Director, Communities of Place
- The Young Mayor (LBTH)

Stakeholders that may attend the Board from time to time but are not members include:

- Councillor nominated by Council from the largest opposition group as a stakeholder
- Representative of NHS England
- Chairs of Tower Hamlets Safeguarding Boards (Adults and Children's)
- Chair of the LBTH Health Scrutiny Sub-Committee

Full Membership including all appointments external to Tower Hamlets Council are listed in the Board's procedures in the Supporting Document to this constitution.



<b>Functions</b>	<b>Delegation of Functions</b>
1. To have oversight of assurance systems in operation	None
2. To encourage integrated working between persons who arrange for the provision of any health or social services in Tower Hamlets for the advancement of the health and wellbeing of the people in Tower Hamlets.	None
3. To provide advice, assistance or other support in order to encourage partnership arrangements under Section 75 of the NHS Act 2006.	None
4. To encourage those who arrange for the provision of any health-related services in Tower Hamlets (e.g. services related to wider determinants of health, such as housing) to work closely with the HWB.	None
5. To encourage persons who arrange for the provision of any health or social care functions in Tower Hamlets and those who arrange for the provision of health-related services in Tower Hamlets to work closely together.	None
6. To identify needs and priorities across Tower Hamlets and publish and refresh the Tower Hamlets Joint Strategic Needs Assessment (JSNA) so that future commissioning/policy decisions are based on evidence.	None
7. To prepare the Joint Health and Wellbeing Strategy.	None
8. To develop, prepare, update and publish the local pharmaceutical needs assessments.	None
9. To be involved in the development of any CCG Commissioning Plan that applies to Tower Hamlets and to give its opinion to the CCG on any such proposed plan.	None
10. To communicate and engage with local people on how they could achieve the best possible quality of life and be supported to exercise choice and control over their personal health and wellbeing. This will involve working with Local HealthWatch to make sure there's a continuous dialogue with the public to ensure services are meeting need.	None
11. Consider and promote engagement from wider stakeholders.	None
12. To have oversight of the quality, safety, and	None

<p>performance mechanisms operated by member organisations of the Board, and the use of relevant public sector resources across a wide spectrum of services and interventions, with greater focus on integration across outcomes spanning health care, social care and public health. Areas of focus to be agreed from time to time by members of the Board as part of work planning for the Board.</p>	
<p><b>13.</b> Such other functions delegated to it by the Local Authority.</p>	<p>None</p>
<p><b>14.</b> Such other functions as are conferred on Health and Wellbeing Boards by enactment.</p>	<p>None</p>
<p><b>Quorum:</b> The quorum of the Board in the Terms of Reference is a quarter of the membership including at least one Elected Member of the Council and one representative from the NHS Tower Hamlets Clinical Commissioning Group.</p>	

## 20 Terms of Reference – Other Bodies and Panels

1. The Council also operates a number of other bodies and panels to take decisions or offer scrutiny or guidance in a number of specific areas. These are often set up under specific legislation. Brief Terms of Reference are presented below, whilst full procedures for certain bodies are set out in Part D of the Constitution.
2. Children's Social Care Complaint Review Panel
3. Fostering Panel
4. Freedom of the Borough Ad-Hoc Panel
5. Pensions Board
6. Private Fostering Panel
7. Safeguarding Adults Board
8. Safeguarding Children Board
9. School Admissions Forum
10. Secure Accommodation Panel
11. Standing Advisory Council on Religious Education (SACRE)
12. The Chief Executive and/or the Mayor may from time to time establish working parties or advisory bodies which include in their membership Councillors and/or officers and/or representatives from partner organisations or the local community. These are not constituted as Committees or Sub-Committees of the Council and are not authorised to make decisions on behalf of the Council. A list of such bodies is maintained and updated by the Monitoring Officer.

## 2. Children's Social Care Complaint Review Panel

<p><b>Summary Description:</b> The Children Act 1989 Representations Procedure (England) Regulations 2006 ('the 2006 Regulations') provides that local authorities are required to put in place systems for complaints to be made verbally to a member of staff or in writing about the actions, decisions or apparent failings of a local authority's children's social services provision. Complaints can be made by the child or young person and to allow any other appropriate person to act on behalf of the child or young person concerned or make a complaint in their own right.</p>	
<p><b>Membership:</b> The Panel consists of three independent people and independent means a person who is neither a member nor an officer of the Council, nor the spouse or civil partner of such a person. The Independent Person appointed to Stage 2 may not be a member of the Panel.</p>	
<p><b>Functions</b></p>	<p><b>Delegation of Functions</b></p>
<p>Where Stage 2 of the complaints procedure has been concluded and the complainant is still dissatisfied, they will be eligible to request further consideration of the complaint by the Review Panel and the Review Panel should:</p> <ul style="list-style-type: none"> <li>(a) listen to all parties;</li> <li>(b) consider the adequacy of the Stage 2 investigation;</li> <li>(c) obtain any further information and advice that may help resolve the complaint to all parties' satisfaction;</li> <li>(d) focus on achieving resolution for the complainant by addressing his clearly defined complaints and desired outcomes;</li> <li>(e) reach findings on each of the complaints being reviewed;</li> <li>(f) make recommendations that provide practical remedies and creative solutions to complex situations;</li> <li>(g) support local solutions where the opportunity for resolution between the complainant and the local authority exists;</li> <li>(h) to identify any consequent injustice to the complainant where complaints are upheld, and to recommend appropriate redress; and</li> <li>(i) recommend any service improvements for consideration by the authority.</li> </ul>	<p>None</p>
<p><b>Quorum:</b> All three independent members of the panel</p>	

### 3. Fostering Panel

**Summary Description:**

The Fostering Panel undertakes the following work generated by the Recruitment and Assessment Team, the Fostering Development Team, the Permanency and Adoption Support Team and the Kinship Care Team:

- Approvals of new short term, long term, short break, remand, teenage and when needed of connected persons;
- Annual foster home reviews;
- Specific Issue reports with regard to existing foster carers, including termination of approvals;
- Matches between long term foster carers and children looked after;
- A connected person who is approved as a foster carer is often referred to as a family and friends carer. Subject to the successful completion of the assessment or checks set out in regulation 24(2), the connected person may be approved as a local authority foster carer for a period not exceeding 16 weeks. Regulation 25 of the 2010 regulations sets out the circumstances in which, exceptionally, the period of temporary approval may be extended for a further 8 weeks. This period has been set to allow a sufficient time for the full approval process to be undertaken, including any criminal record checks required;
- Variations and exemptions with regard to foster carers' approval criteria.

**Membership:** There is no requirement for the panel to have a fixed membership, although the ability of the panel to function cohesively and with a level of consistency must be taken into account. There is no limit on the number of people who may be included on the list. Membership should include:

- Panel Chair
- Vice-Chair
- Relevant officers
- Elected Member(s)
- Others as set out in the procedures document.

**Functions**

**Delegation of Functions**

The panel has the following areas of responsibility:

- To consider each application for approval and recommend whether or not the person is suitable to act as a foster carer and the terms of approval.
- To recommend whether a foster carer's terms of approval remain appropriate. Annual foster home reviews and specific issues reports following allegations can be signed off by the chair but need to be presented to the panel in the following circumstances:
  - First review and every following third review
  - Following allegations or child protection concerns,

<p>whether this is proven or unsubstantiated</p> <ul style="list-style-type: none"> <li>○ If a significant change of approval or termination of approval is requested</li> <li>○ On any other occasion if requested by the panel or the fostering service</li> </ul> <ul style="list-style-type: none"> <li>• To consider matches between long term foster carers and looked after children</li> <li>• To give advice at an early stage of the fostering assessment, if there are questions with regard to whether the applicant would ultimately be approved</li> <li>• To hear appeals from applicants whom the fostering team has turned down</li> <li>• To make a recommendation in relation to the deregistration of any foster carer and hear representations made by the carer, which are received within 28 days</li> <li>• To monitor the range and type of foster carers available to Tower Hamlets in relation to the profile of children needing foster carers (Standard 13.6)</li> <li>• To consider management information about the outcome of foster home reviews (Standard 30)</li> <li>• To oversee the conduct of assessments and monitor the quality of reports (Standard 13)</li> <li>• To give advice and make recommendations on any other matter or case that the fostering service feels is appropriate to refer to the panel</li> </ul>	
<p><b>Quorum:</b> At least 5 members including the Chair or Vice-Chair. At least one Tower Hamlets social worker and at least two independent members must be present.</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>• Constitution Part D, Section 54 (Fostering Panel Meeting Procedure Rules)</li> </ul>	

#### 4. Freedom of the Borough Ad Hoc Panel

**Summary Description:** The Council is empowered by section 249(5) of the Local Government Act 1972 to admit as Honorary Freemen/Freewomen of the borough ‘persons of distinction and persons who have in the opinion of the Council, rendered eminent services to the borough’.

The Freedom of the Borough Ad Hoc Panel will consider any proposals relating to the granting of the Freedom of the Borough including any nominations for that award and make recommendations accordingly for consideration by Full Council.

**Membership:** Members of the Panel to include the Speaker of the Council, the Executive Mayor, any former Civic Mayors or Chairs of Council still serving as Councillors, and at least one representative of each political group on the Council. The Panel may co-opt additional non-voting Members including other former Civic Mayors or Chairs/ Speakers of Council, or independent persons drawn from the business, community or public sectors. The Panel shall be chaired by the Speaker of the Council.

<b>Functions</b>	<b>Delegation of Functions</b>
1. To consider any proposals that may be made in due course relating to the granting of the Freedom of the Borough, including any nominations for that award, and to make recommendations	None

**Quorum:** 3 voting Members of the Panel

## 5. Pensions Board

**Summary Description:** The Board was created under the Public Service Pensions Act 2013 to assist the Administering Authority (Tower Hamlets Council) in its role as a scheme manager of the scheme.

**Membership:** The Board shall consist of 6 voting members, as follows:  
3 Member Representatives; and  
3 Employer Representatives.

There shall be an equal number of Member and Employer Representatives.

There shall also be 1 other representative who is not entitled to vote (to be appointed as Chair).

### Functions

### Delegation of Functions

1. The purpose of the Board is to assist<sup>1</sup> the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:
  - (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and;
  - (b) to ensure the effective and efficient governance and administration of the Scheme.

None

- **More details are set out in the Pensions Board Meeting Procedure Rules**

**Quorum:** 1.A meeting is only quorate when at least one person of each member and employer representatives are present plus an independent chair or 50% of both member and employer representatives are present.

2.A meeting that becomes inquorate may continue but any decisions will be non-binding.

### Additional Information:

- Constitution Part D, Section 54 (Pensions Board Meeting Procedure Rules)

<sup>1</sup> Please see paragraph 3.28 of the Guidance for more information on what assisting the Administering Authority means



## 6. The Private Fostering Panel

<b>Summary Description:</b> To consider private fostering arrangements and related issues.	
<b>Membership:</b> The Panel can have up to ten Members including the Chair, Vice-Chair, medical representative, education representative, independent member, and agency member. Advisors to the Panel can also be appointed.	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To consider and be satisfied of the suitability of each private fostering arrangement and to recommend whether or not a person is suitable to act as a private foster carer. Where the suitability of a private fostering arrangement is agreed, to recommend the terms on which the agreement is given;	None
2. To make decisions to impose requirements or prohibitions and whether to refuse to consent to allow a person who is disqualified to privately foster a child/young person;	None
3. To give advice and make recommendations on any other matter or case that Tower Hamlets Private Fostering Service feels appropriate to recommend to it.	None
4. The private fostering panel will provide a quality assurance function in relation to the assessment process – in particular: <ul style="list-style-type: none"> <li>• To monitor and review the work of the assessor;</li> <li>• To provide feedback;</li> <li>• To identify problems and concerns;</li> <li>• To ensure there is a consistency of approach in assessment processes across the service which is fair to all parties and has been completed in a thorough and rigorous way, (as indicated in The Children Act 1989 Guidance on Private Fostering and Tower Hamlets Protocol on Private Fostering Arrangements),</li> </ul>	None
<b>Quorum:</b> Three voting members including a panel member not employed by the Children’s Directorate and also either the Chair or Vice Chair.	
<b>Additional Information:</b> <ul style="list-style-type: none"> <li>• Constitution Part D, Section 54 (Private Fostering Panel Meeting Procedure Rules)</li> </ul>	

## 7. Safeguarding Adults Board

<p><b>Summary Description:</b> The role of the SAB is to oversee and lead adult safeguarding across the locality with the aim of preventing abuse and neglect. This includes the safety of patients in its local health services, quality of local care and support services, effectiveness of prisons and approved premises in safeguarding offenders and awareness and responsiveness of further education services.</p>	
<p><b>Membership:</b> To comply with the Care Act 2004, there must be representation from the Local Authority, Local Clinical Commissioning Group and the Police. Exact current membership set out in the Board's Procedures.</p>	
<p><b>Functions:</b> The SAB has three duties under the Care Act 2004.</p>	<p><b>Delegation of Functions</b></p>
<p>1. It must publish a strategic plan for each financial year that sets how it will meet its main objective and what the members will do to achieve this.</p>	<p>None</p>
<p>2. It must publish an annual report detailing what the SAB has done during the year to achieve its main objective and implement its strategic plan, and what each member has done to implement the strategy as well as detailing the findings of any Safeguarding Adults Reviews and subsequent action.</p>	<p>None</p>
<p>3. It must conduct any Safeguarding Adults Review in accordance with Section 44 of the Act.</p>	<p>None</p>
<p><b>Quorum:</b> Is not based on numbers but on an adequate balance of representation. Including ensuring the meeting is compliant with the Care Act. The Safeguarding Adults Board/LD Strategy Manager and The Adult Safeguarding /MCA Manager must also be in attendance.</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>• Constitution Part D, Section 54 (Safeguarding Adults Board Meeting Procedure Rules)</li> </ul>	

## 8. Tower Hamlets Safeguarding Children Board

<p><b>Summary Description:</b> The Local Safeguarding Children Board (LSCB) established through the Children Act 2004 Section 14.1, is a statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of children, and for ensuring the effectiveness of what they do.</p>	
<p><b>Membership:</b> The Membership is reviewed on an annual basis and will be published separately.</p>	
<p><b>Functions:</b> The broad scope of the LSCB is to address:</p>	<p><b>Delegation of Functions</b></p>
<p>1. Activity that affects all children and aims to identify and prevent maltreatment or impairment of health or development, and ensure children are growing up in circumstances consistent with safe and effective care</p>	<p>None</p>
<p>2. Proactive work that aims to target particular groups</p>	<p>None</p>
<p>3. Responsive work to protect children who are suffering, or likely to suffer, significant harm</p>	<p>None</p>
<p><b>Quorum:</b> N/A</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>Constitution, Part D Section 54 (Safeguarding Children’s Board Meeting Procedure Rules)</li> </ul>	

## 9. School Admissions Forum

<p><b>Summary Description:</b> The forum's primary purpose is to consider and promote a fair and effective schools admission system, which advances social equity and inclusion, ensuring that the interests of local parents and children come first. It will discuss and give advice to the Local Authority and other admission authorities on a range of school admissions issues including those listed below:</p>	
<p><b>Membership:</b> The core membership of twenty representatives are nominated by various groups. Full details in the Forum's Procedures.</p>	
<b>Functions</b>	<b>Delegation of Functions</b>
1. Considering existing and proposed admissions arrangements;	
2. Promoting local agreement on admission issues;	
3. Considering improvements to admissions processes;	
4. Reviewing admissions guidance for parents;	
5. Promoting agreement on arrangements for dealing with in-year admissions including arrangements for vulnerable and looked after children;	
6. Publishing advice representing the agreed views of the Forum, this is distributed to the governors of all schools which are their own admission authorities;	
7. Having regard to guidance published from time to time by the Secretary of State, particularly the revised Codes of Practice on School Admissions, School Admission Appeals and 'Hard to Place' Pupils.	
<p><b>Quorum:</b> 7 core members.</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>• Constitution Part D, Section 54 (School Admissions Forum Meeting Procedure Rules)</li> </ul>	

## 10. Secure Accommodation Panel

<b>Summary Description:</b> The Purpose of a Secure Accommodation Review is to consider whether the criteria for keeping a child in secure accommodation continue to apply, on the day of the review, if such a placement continues to be necessary and whether or not any other form of accommodation would be appropriate.	
<b>Membership:</b> At least 3 persons, at least one of whom is neither a member nor an officer of the Council by or on behalf of which the child is being looked after	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To discharge the functions as set out in the Children (Secure Accommodation) Regulations 1991	None
<b>Quorum:</b> All voting Members of the Panel	

## 11. Standing Advisory Council on Religious Education (SACRE)

<p><b>Summary Description:</b> Education Reform Act 1988 places a duty on every Local Authority to constitute a Standing Advisory Council on Religious Education (SACRE). Religious Education is part of the basic curriculum which is made up of the National Curriculum and Religious Education. Unlike any other subject in the statutory curriculum, RE is locally determined, monitored and controlled in a partnership with the local communities of religion and belief.</p>	
<p><b>Membership:</b> Representatives from Groups A to D  <b>Group A:</b> 16 representatives from such Christian and other religious denominations as in the opinion of the Authority will appropriately reflect the principal religious traditions in the area.          [1 African Caribbean Pentecostal Churches; 1 Buddhist; 1 Free Church; 1 Hindu; 1 Jewish; 6 Muslim; 3 Roman Catholic; 1 Sikh; and 1 Society of Friends]  <b>Group B:</b> 6 representatives from The Church of England  <b>Group C:</b> 7 representatives from associations representing teachers as, in the opinion of the Authority, ought to be represented having regard to the circumstances of the area.  <b>Group D:</b> 4 representatives from the Local Authority          [3 elected Members; and 1 officer]          1 co-opted representative of non-religious worldviews (non-voting)</p>	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To provide advice to the Council as local authority (LA) on all aspects of its provision for religious education in its schools, excluding voluntary aided schools	None
2. To support the LA in its duty to establish an occasional body called an Agreed Syllabus Conference at least once every 5 years to decide whether the LA's agreed syllabus for religious education needs to be reviewed and to require the LA to do so.	None
3. To provide advice to the LA on collective worship in its schools	None
4. To consider any requests from head teachers to lift the requirement that provision for collective worship be wholly or mainly of a broadly Christian nature	None
5. To advise on matters relating to training for teachers in religious education and collective worship	None
6. To advise the LA on RE in accordance with the agreed syllabus, and on matters related to its functions, whether in response to a referral from the LA or as it sees fit. (Section 391(1)(a) Education Act 1996	None
7. Statutory duty to publish an annual report on its work and on actions taken by its representative groups, specifying any matters on which it has advised the LA, broadly describe the nature of that advice, and set out reasons for offering advice on matters not referred to it by the LA. (Section 391(6) and (7) Education Act 1996.	None
8. To consider any other matters relating to its remit.	None

<b>Quorum:</b> A total of eight persons from groups A to D as follows:-	

1. 2 representatives from Group A – representing 2 different denominations
2. 1 person from Group B
3. 2 representatives from Group C – representing different associations
4. 2 people from Group D – including at least one Councillor

## 21 Terms of Reference – Joint Committees

1. As set out in more detail in Section 12, the Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of a joint Committee with these other local authorities and/or their Executives.
2. The Mayor or Executive may only appoint Executive Members to a joint Committee except where:
  - (i) the joint committee is discharging a function in relation to five or more relevant authorities; or
  - (ii) the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee.
3. Terms of Reference for the Council's Joint Committees are set out below.
4. Grants Committee
5. Inner North East London Joint Health Overview and Scrutiny Committee
6. Joint Committee of the Six Growth Boroughs
7. London Council's Committee (known as the Leader's Committee)
8. London Housing Consortium
9. Pensions CIV Sectoral Committee
10. Transport and Environment Committee
11. Regional Adoption Panel



#### 4. Grants Committee

**Membership:** This Committee was established to take decisions in relation to the London Councils Grants Scheme which was established under section 48 of the Local Government Act 1985. The members of the Grants Committee are from the 33 London Boroughs (this includes the City of London).

**Terms of Reference:** The terms of reference of the Committee are:

1. To ensure the proper operation of the London Boroughs Grants Scheme;
2. To make recommendations to the Leaders' Committee on overall policies, strategies and priorities;
3. To make recommendations to the Leaders' Committee on the annual budget for the London Borough Grants Scheme;
4. To consider grant applications and make grants to eligible voluntary organisations; and
5. To make all decisions relating to the making of grants and the operation of the scheme save those which are specifically reserved to constituent councils.

**Rules of Procedure:** See for the London Council's Committee

## 5. Inner North East London Joint Health Overview and Scrutiny Committee

**Introduction: 1.** Regulation 30 of the Local Authority ( Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (Reg 30) ensure that there are sufficient scrutiny procedures and policies in place to cover the cross-Borough wide NHS Sustainability and Transformation Plan (STP).

**Membership:** The INEL JHOSC will be a committee serviced by the participating local authorities on a two-yearly cycle – the current local authority hosting the INEL JHOSC is the London Borough of Newham in accordance with section 101(5) of the Local Government 1972;

The membership shall be made up of three members from each of the larger participating local authorities and one from the City of London Corporation; making a total of 10 members, with each council's membership being politically proportionate and with non-executive councillors making up the membership.

Substitutions will be accepted if a councillor is not able to attend a meeting of the JHOSC and that councillor has informed the Chair and Scrutiny Officer five working days in advance of the meeting.

Guidance suggests that co-opting people is one method of ensuring involvement of key stakeholders with an interest in, or knowledge of, the issue being scrutinised. This is already a power of overview and scrutiny committees by virtue of the Local Government Act 2000. However, the Guidance also recommends other ways of involving stakeholders by, for example, giving evidence or by acting as advisers to the committee.

A Chair (from the host authority) will be appointed by the JHOSC at the first meeting.

A vice-Chair (from non-host local authorities) will be appointment by the JHOSC at the first meeting. Where agreed, a second vice-Chair may also be nominated to ensure parity across the Membership.

**Role:** Consider and respond to any health matter which:  
Impacts on two or more participating local authorities or on the sub region as a whole, and for which a response has been requested by NHS organisations under Section 244 of the NHS Act 2006; and  
All participating local authorities agree to consider as an INEL JHOSC

To collectively review and scrutinise any proposals within the STP that are a substantial development / variation of the NBS or the substantial development / variation of such service where more than one local authority is consulted by the relevant NHS body pursuant to Reg 30;

To collectively consider whether a specific proposal within the STP that's is not a substantial development or variation is only relevant for one authority and therefore should be referred to that local authority's Health Scrutiny Committee for scrutiny;

In the event that a participating local authority considers that it may wish to consider a discretionary matter itself rather than have it dealt with by the joint committee it shall give notice to the other participating councils and the joint committee shall then not take any decision on the discretionary matter (other than a decision which would not affect the council giving notice) until after the next full Council meeting of the council giving notice in

order that the council giving notice may have the opportunity to withdraw delegation of powers in respect of that discretionary matter;

To require the relevant local NHS body to provide information about the proposals under consideration and where appropriate to require the attendance of a representative of the NHS body to answer such questions as appear to it to be necessary for the discharge of its function;

Make reports or recommendations to the relevant health bodies as appropriate and/or the constituent authorities' respective Overview and Scrutiny Committees (OSC) or equivalent;

Each Council to retain the power of referral to the Secretary of State of any proposed "substantial variation" of service, so this power is not solely delegated to the JHOSC.

To review the procedural outcome of consultations referred to in any substantial development / variation, particularly the rationale behind contested proposals;

To undertake in-depth thematic studies in respect of services to which the NHS Trusts contribute and where a study is done on a Trust wide and cross borough basis;

To take account of relevant information available and in particular any relevant information provided by Healthwatch under their power of referral;

To maintain effective links with Healthwatch and other patient representative groups and give consideration to their input throughout the Scrutiny process;

**Quorum:** The quorum for meetings will be seven members from at least two local authorities. During any meeting if the Chair counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If a date is not fixed, the remaining business will be considered at the next meeting.

### **Decision Making Process**

Decisions will be taken by consensus. Where it is not possible to reach a consensus, a decision will be reached by a simple majority of those members present at the meeting. Where there are equal votes the Chair will have the casting vote.

### **Reporting Arrangements**

Prior to the agenda for each meeting of the JHOSC being finalised officers will convene a planning / pre-meeting with the Chairs of the individual HOSC's or their nominee, along with key individuals presenting papers from the NHS and other informal briefings as considered appropriate;

In terms of the JHOSC's conclusions and recommendations the Guidance says that one report has to be produced on behalf of the JHOSC. The final report shall reflect the views of all local authority committees involved in the JHOSC. it will aim to be a consensual report.

In the event there is a failure to agree a consensual report the report will record any minority report recommendations. At least seven members of the JHOSC must support the inclusion of any separate minority report in the committee's final report.

Any report produced by the JHOSC will be submitted to the local authority's council

meetings for information.

The NHS body or bodies receiving the report must respond in writing to any requests for responses to the report or recommendations, within 28 days (calendar, not working) of receipt of the request.

In the event that any local authority exercises its right to refer a substantial variation to the Secretary of State, it shall notify the other local authorities of the action it has taken and any subsequent responses.

### **Frequency and Administration**

INEL JHOSC to meet quarterly, with at least one meeting within a 12 month period aligned with ONEL JHOSC to consider issues that cover the STP footprint;

To constitute and meet as a Committee as and when participant boroughs agree to do so subject to the statutory public meeting notice period;

Meetings will usually be led by each authority rotating on a two-yearly basis with the Chair being a councillor from the current lead local authority;

The lead authority will be responsible for the servicing of the JHOSC. Suitable officer resources (Legal, Democratic) will be provided to meet the requirements of the committee. This includes (but is not restricted to):

1. providing legal advice;
2. liaising with health colleagues ahead of the meeting;
3. updating action sheets from previous meetings;
4. producing agenda papers and co-ordinating public forum;
5. creating formal minutes and actions sheets;

If there is a specific reason, for example, if the issue to be discussed relates to a proposal specific to the locality of one Local Authority area the meeting venue can change to a more appropriate venue. The lead Local Authority would remain the same, even if the venue changes;

Any changes to the host authority must be agreed by the committee;

Agenda and supporting papers to be circulated and made publicly available at least five working days before the meeting;

Actions to be circulated to those with actions as soon as possible after the meeting – no later than 48hrs following the meeting;

Minutes of the meeting to be circulated within 10 working days of the meeting;

Meetings to be held in public, with specific time allocated for public questions;

### **Petitions, Statements and Questions**

Members of the public and members of council, provided they give notice in writing or by electronic mail to the proper officer of the host authority (and include their name and address and details of the wording of the petition, and in the case of a statement or question a copy of the submission), by no later than 12 noon ONE WORKING DAY

BEFORE the meeting, may present a petition, submit a statement or ask a question at meetings of the JHOSC. The petition, statement or question must relate to the terms of reference and role and responsibility of the committee;

The total time allowed for dealing with petitions, statements and questions at each meeting is thirty minutes;

Statements and written questions, provided they are of reasonable length, will be copied and circulated to all members and will be made available to the public at the meeting;

There will be no debate in relation to any petitions, statements and questions raised at the meeting but the committee will resolve;

1. “that the petition / statement be noted”; or
2. if the content relates to a matter on the agenda for the meeting: “that the contents of the petition / statement be considered when the item is debated”;

### **Response to Questions**

Questions will be directed to the appropriate Director or organisation to provide a written response directly to the questioner. Appropriately redacted copies of responses will be published on the host authority’s website within 28 days.

Details of the questions and answers will be included on the following meeting’s agenda.

### **Principles of Effective Scrutiny**

Scrutiny undertaken through the JHOSC will be focused on improving the health and health services for residents in areas served by the JHOSC through the provision and commissioning of NHS services for those residents;

Improving health and health services through scrutiny will be open and transparent to Members of the Local Authority, health organisations and members of the public.

All Members, officers, members of the public and patient representatives involved in improving health and health services through scrutiny will be treated with courtesy and respect at all times.

Improving health and health services through scrutiny is most likely to be achieved through co-operation and collaboration between representatives of the various Local Councils, NHS Trusts, representatives of Healthwatch and the Clinical Commissioning Groups commissioning hospital services;

Co-operation and joint working will be developed over time through mutual trust and respect with the objective of improving health and health services for local people through effective scrutiny.

All agencies will be committed to working together in mutual co-operation to share knowledge and deal with requests for information and reports for the JHOSC within the time scales set down.

The JHOSC will give reasonable notice of requests for information, reports and attendance at meetings.

The JHOSC, whilst working within a framework of collaboration, mutual trust and co-operation, will always operate independently of the NHS and have the authority to hold views independent of other Members of representative Councils and their Executives;

The independence of the JHOSC must not be compromised by its Members, by other Members of the Council or any of the Councils' Executives, or by any other organisation it works with;

Those involved in improving health and health services through scrutiny will always declare any particular interest that they may have in particular pieces of work or investigation being undertaken by the JHOSC and thus may withdraw from the meeting as they consider appropriate;

The JHOSC will not to take up and scrutinise individual concerns or individual complaints.

Where a wider principle has been highlighted through such a complaint or concern, the JHOSC should consider if further scrutiny is required. In such circumstances it is the principle and not the individual concern that will be subject to scrutiny.

## 6. Joint Committee of the Six Growth Boroughs

**Membership:** The Joint Committee of the Six Growth Boroughs is a joint committee pursuant to section 101(5) of the Local Government Act 1972. It consists of 12 Members, comprising two Members nominated by the Executive from each of the 6 boroughs, namely the London Boroughs of Barking and Dagenham, Hackney, Newham, Tower Hamlets, and Waltham Forest, and the Royal Borough of Greenwich, for a maximum period not exceeding beyond and Member's remaining terms of office as a councillor

**Terms of Reference:** To act as a joint committee of the London Boroughs of Hackney, Newham, Tower Hamlets, Waltham Forest, and Barking and Dagenham, and the Royal Borough of Greenwich (the six boroughs) for joint collaboration in relation to convergence and legacy and to discharge on behalf of the boroughs the executive functions listed below in so far as they relate to joint activities or areas of common concern in relation to convergence and legacy, as agreed in the business plan:

1. Management and expenditure of the annual budget as defined by the Inter Authority Agreement made between the six boroughs dated [.....]
2. Management and expenditure of external funding and all other financial resources allocated to the joint committee, including any funding allocated to the joint committee by any or all of the six boroughs in addition to the annual budget.
3. Approval of an annual business plan.
4. Joint promotion of the Growth Boroughs area and its unique portfolio of assets including the Olympic afterglow.
5. Consistent approach to enforcing through planning and procurement requirements the promotion of convergence by developers and contractors.
6. Collective promotion of transport and other infrastructure investment including its prioritisation over other parts of London.
7. Joint bidding for funding, training and employment programmes, e.g. funding from the European Union and Regional Growth Fund (RGF) where bids from one Borough will not be entertained.
8. Convergence and the prioritising of the social and economic needs of the Growth Boroughs area.
9. Collective action in respect of the National and Regional allocation of local government housing, health, policing and transport resources based on need and population.
10. Working together to protect Growth Boroughs' interests in respect of National and Regional policy and action.
11. Collective working with employers on jobs and skills.
12. Contextual recognition of the varying economic, housing and investment opportunities related to the character and resources of each of the Growth Boroughs.

Any other executive functions relating to joint activities or areas of common concern in relation to convergence and legacy in relation to which funding is allocated through the annual budget or in respect of which external funding or any other financial resources are allocated to the joint committee.

The governance arrangements provide flexibility so that one or more but less than six boroughs can opt out of certain projects insofar as they relate to joint activities or areas of concern. It is within the capacity of the Joint Committee to agree that one or more but less than six boroughs may participate in work with other authorities outside the growth borough arrangements. The Joint Committee will agree any particular project will be undertaken by one or more boroughs outside the responsibilities of the Joint Committee.

**Quorum:** At least 1 Member from each of the 6 boroughs



## 7. London Council's Committee (known as the Leader's Committee)

**Membership:** The Leaders' Committee is comprised of the Leader / Mayor of each of the 33 London Local Authorities

**Terms of Reference:** The terms of reference of the Committee are set out in full in the Agreement dated 1<sup>st</sup> April 2000 and are summarised below:

1. To consult on the common interests of the London Local Authorities and to discuss matters relating to Local Government.
2. To represent the interests of the London Local Authorities to national and Local Government, to Parliament, to the European Union and other international organisations and to other bodies and individuals, and to negotiate as appropriate on behalf of member authorities.
3. To formulate policies for the development of democratic and effectively management Local Government.
4. To provide forums for the discussion of matters of common concern to the London Local Authorities and a means by which their views may be formulated and expressed.
5. To appoint representatives or staff to serve on any other body.
6. To represent the interests of the London Local Authorities as employers.
7. To provide services to the London Local Authorities including the dissemination of information on Local Government and on other relevant issues.
8. To provide information to the public, individuals and other organisations on the policies of London Councils and Local Government issues relevant to London.
9. To act as the regional body of the Local Government Association.
10. To act for, and on behalf of London Local Authorities in their role as employers, through the provision and development of a range of services.

**Rules of Procedure:** The rules of debate and procedure for the conduct of meetings of the Leaders' Committee are set out in Standing Orders contained in the 1 April 2000 Agreement and which are also published on the London Councils' website. London Councils is also required to comply with Financial Regulations contained in the ALG Agreement. These Standing Orders and Financial Regulations also apply to the other London Councils joint committees detailed below.

## 8. London Housing Consortium

**Membership:** The London Housing Consortium (LHC) is a joint committee pursuant to section 101(5) of the Local Government Act 1972 and is a building procurement consortium for housing, schools and corporate buildings. The LHC is governed by a Board of Elected Members which comprises one voting Councillor representative from the each of the local authority members. The constituent authorities are: Buckinghamshire County Council and the London Boroughs of Brent, Ealing, Hackney, Haringey, Hillingdon, Islington, Lambeth, and Tower Hamlets

**Terms of Reference:** The terms of reference of the Committee are:

1. To provide specialist technical and procurement services related to building programmes undertaken by London Housing Consortium constituent authorities and other public sector bodies.
2. To establish, develop and manage framework agreements for the procurement of building components and services for the use and benefit of all constituent authorities and other public sector bodies.

## 9. Pensions CIV Sectoral Committee

**Membership:** Each London Local Authority participating in the arrangements shall appoint a representative to the Committee being either the Leader of the authority or the elected mayor as appropriate or a deputy appointed for these purposes.

**Summary Description:** The Pensions CIV Joint Committee will in practice be fulfilling two roles:

a) To consider and provide guidance on the direction and performance of the CIV (“Joint Committee Meetings”). Decisions can be taken at the committee relating to the operation and business of the ACS Operator but they will not be formal decisions of the ACS Operator unless either a general meeting of the ACS Operator (and not the committee) has been formally convened or a Board meeting of the ACS operator adopts the recommendations of the Joint Committee.

b) The formal shareholder meetings of the ACS Operator to take decisions on behalf of the participating London local authorities in their capacity as shareholders exercising the shareholder rights in relation to the ACS Operator (“Shareholder Meetings”).

Functions	Delegation of Functions
1. As set out in the Committee procedures (Constitution Part D Section 53)	

**Quorum:** As set out in the Standing Orders of London Councils

## 10. Transport and Environment Committee

**Membership:** This Committee was established under an Agreement dated 15 January 1998, which was varied by Agreements dated 13 December 2001 and 1 May 2003. The Committee is comprised of 1 councillor from each of the London Local Authorities and Transport for London

**Terms of Reference:** The terms of reference of the Committee are set out in full in the Agreements dated 13<sup>th</sup> December 2001 and 1<sup>st</sup> May 2003 and are summarised below:

1. Appoint and provide accommodation and administrative support for parking adjudicators and determine the places at which parking adjudicators are to sit.
2. Determine the penalty charge levels and fees for de-clamping, vehicle recovery, storage and disposal subject to the approval of the Secretary of State.
3. Determine the rate of discount for early payment of penalty charge notices.
4. Determine the form for aggrieved motorists to make representations to London Local Authorities under Section 71 of the Road Traffic Act 1991.
5. The publication and updating as necessary of the Code of Practice for Parking in London.
6. The co-ordination and maintenance of vehicle removal and clamping operations.
7. The establishment of links with the Metropolitan and City Police and County Courts and the DVLA.
8. Ticket processing, general data collection and service monitoring.
9. The establishment of common training standards in connection with parking standards, the accreditation of training centres and award qualifications.
10. The establishment of London-wide parking schemes.
11. Implementation and enforcement of the London Lorry Ban.
12. Managing the Concessionary Fares Scheme.
13. Managing the London Taxicard Scheme.

**Rules of Procedure:** See for the London Council's Committee above

## 11. Regional Adoption Panel

<p><b>Summary Description:</b> All adoption decisions for relinquished children and matches for children are considered by the Adopt London East (ALE) Adoption Panel, with whom Tower Hamlets works in partnership alongside three other boroughs as a Regional Adoption Agency. ALE assesses and approves adopters via this panel.</p>	
<p><b>Membership:</b> ALE maintains a list of persons who are considered by it to be suitable to be members of an adoption panel "The Central list"</p> <p>It must include:-</p> <ul style="list-style-type: none"> <li>(a) One or more social workers who have at least three years relevant post-qualifying experience.</li> <li>(b) The medical adviser to the adoption agency</li> </ul>	
<b>Responsibilities</b>	<b>Delegation of Functions</b>
<p>The panel is responsible for the following in relation to recommendations to the Tower Hamlets Agency Decision Maker:</p> <ul style="list-style-type: none"> <li>(a) To make adoption decisions for relinquished children.</li> <li>(b) To make recommendations in relation to a 'match' of an adopter with a child. The adoption panel makes a considered recommendation, taking in to account all of the relevant information sent through to them. The relevant documentation is sent out to the panel members at least five working days in advance of the actual panel date.</li> <li>(c) To make a fresh recommendation if a case is referred back to panel following an applicant being considered unsuitable and where they make representations to the agency.</li> <li>(d) To consider a brief report when the assessing social worker is recommending that the applicant's assessment should be terminated.</li> <li>(e) To consider the reviews of approved adopters where they may be considered no longer suitable to adopt, and to follow the process set out in AAR 29.4</li> <li>(f) Give advice and make recommendations on any other matter or case as appropriate.</li> </ul> <p>In addition the panel has the following duties and functions:</p> <ul style="list-style-type: none"> <li>(a) A quality assurance function reporting back to the agency every six months in relation to the assessment process and the quality of reports being presented to the panel, including checking whether the requirements of the Restrictions on the Preparation of Adoption</li> </ul>	<p>None</p>

<p>Reports Regulations 2005 are being met. In particular, monitoring and review of the work carried out by assessors: to provide feedback; to identify problems; and to ensure there is a consistency of approach in assessment across the service, and that assessment is fair to all applicants and has been completed in a thorough and rigorous way.</p> <p>(b) Monitoring the range and type of adopters available to Tower Hamlets in comparison with the needs of children requiring adoptive placements and monitoring time scales according to set standards. Where these timescales have not been met, recording accurately the reason for delay.</p> <p>(c) Ensuring the written minutes of panel meetings are accurate and informative, and clearly cover the key issues and views expressed by panel members. The minutes should record the panel's recommendation, the reasons for its recommendation and its advice. The panel chair is responsible for checking the accuracy of the minutes, ensuring they are sufficiently full, and give the actual recommendations from the panel meeting.</p> <p>(d) Exploring the support offered to adopters and post- and pre-placement children and making recommendations accordingly</p>	
<p><b>Quorum:</b> From the central list the agency must appoint:-</p> <p>(a) A person to chair the panel, who is independent of the agency, (b) One or two people as vice-chairs, who may act as chair if necessary</p>	
<p><b>Additional Information:</b></p> <ul style="list-style-type: none"> <li>• Constitution Part D, Section 54 (Adoption Panel Meeting Procedure Rules)</li> </ul>	

## 22 Terms of Reference – The Executive

1. As set out in more detail in Section 8 the Council’s Executive has established a Cabinet and two Sub-Committees to discharge Executive responsibilities. Their terms of reference are set out below as follows:
2. Cabinet
3. Grants Determination Cabinet Sub-Committee
4. King George’s Field Board

### 4 Cabinet

<b>Summary Description:</b> The Cabinet is forum for the Mayor and Cabinet Members to take decisions related to the Executive functions of the Council.	
<b>Membership:</b> The Mayor and at least 2 and not more than 9 other Executive Councillors appointed by the Mayor.	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To discharge all functions not specified as the responsibility of the full Council or of any other Committee, where the Mayor has delegated his powers to the Cabinet as set out in the Executive Scheme of Delegation.	Chief Officers and other officers authorised by them have the delegated authority as set out in Section 18 and 24.
2. In relation to any Executive function for which the Mayor has not delegated his powers to the Cabinet, to advise the Mayor on the discharge of that function.	No delegations
3. To refer to the Standards Advisory Committee for consideration any report which contains implications for the Council's ethical framework	No delegations
<b>Quorum:</b> 3 Members of the Cabinet including the Mayor or, where notified in advance to the Monitoring Officer, the Statutory Deputy Mayor.	
<b>Additional Information:</b> <ul style="list-style-type: none"> <li>• Constitution Part B Section 29 Executive Procedure Rules</li> <li>• Constitution Part D Section 53 Procedure for Executive Decision Making by the Mayor or a Cabinet Member</li> </ul>	

**The Cabinet may establish Sub-Committees to discharge functions on its behalf but any Cabinet Sub-Committee may only include Cabinet Members.**

## 5. King George's Fields Charity Board

<p><b>Summary Description:</b></p> <p>The original charity was set up following the grant of moneys from a national appeal to perpetuate the memory of the late King George V. The foundation made grants for the laying out of the playing fields and it was agreed that they would be preserved in perpetuity as a memorial to King George V.</p> <p>The current King George's Field Charity Board is child of the original arrangements and trustee. Currently the work is split into two charities, King George's Field Mile End and King George's Field Tredegar Square. Both are dealt with by the Board.</p> <p>This covers a number of pieces of land including Stepney Green Park, Whitehorse Road Open Space, Tredegar Square and most of Mile End Park including Mile End Park Leisure Centre and Mile End Stadium.</p> <p>This includes 10 shop units situated beneath the 'Green Bridge' at Mile End.</p>	
<p><b>Membership:</b> All Members of the Cabinet</p>	
<p><b>Functions</b></p>	<p><b>Delegation of Functions</b></p>
<p>1. To administer the affairs of the King George's Field, Mile End charity, registered number 1077859 and the King George's Field – Stepney (Tredegar Square, Bow) charity, registered number 1088999 and discharge all duties of the Council as sole trustee of these charities.</p>	<p>No delegations</p>
<p>2. To administer the affairs and discharge the duties of trustee of such other charities controlled by the Council as the Executive might authorise.</p>	<p>No delegations</p>
<p><b>Quorum:</b> 3 Members of the Board</p>	



## 6. Grants Determination Sub-Committee

<b>Summary Description:</b> A Cabinet Sub-Committee established to consider matters relating to grants.	
<b>Membership:</b> Three Members of the Cabinet (Executive Councillors or the Mayor) as appointed by the Mayor. All other Executive Members can substitute where necessary.	
<b>Functions</b>	<b>Delegation of Functions</b>
1. To determine all applications for grant funding received by the Council.	No delegations
2. To determine all applications for corporate match funding received by the Council.	No delegations
3. The Sub-Committee may delegate decision making to individual officers, provided that the extent of this delegation is made clear and that it is minuted properly	No delegations
4. Where decision making has been delegated, to receive a report advising as to the exercise of a discretion at the next Sub-Committee meeting following the exercise of such discretion.	No delegations
5. To receive quarterly update reports against defined parameters in order for the Council to demonstrate either: that delivery is in line with the application and, therefore, the grant achieved its purpose; or to provide clear delineation where outcomes were not achieved and the reasons for such failure are apparent. Such Monitoring should therefore include measuring performance against the expected outcomes.	No delegations
6. To determine criteria under which grant applications will be considered.	No delegations
<b>Quorum:</b> 3 Members of the Committee	

## 23 Corporate Scheme of Delegation – The Chief Executive and Corporate Directors – Delegations

1. The Council may appoint such officers as it considers appropriate for the discharge of its functions. Currently the Council has appointed as its Corporate Leadership Team the following officers:-
  - Chief Executive
  - Corporate Director Governance
  - Corporate Director Resources
  - Corporate Director Place
  - Corporate Director Health, Adults and Community
  - Corporate Director, Children and Culture
2. The Council delegates to the Chief Executive and Corporate Directors authority to make decisions relating to any:
  - Executive function of the Council carried out by services under their management in accordance with the Mayor's Executive Scheme of Delegation other than key decisions, and those which are the responsibility of the Mayor, unless specifically delegated to be taken by the Mayor in Cabinet, a Cabinet Sub Committee or an Officer and
  - Any Council function carried out by services under their management other than those reserved in the terms of reference of the Council to the Council or to any Council Committee or Sub-Committee unless the Council or that Committee or Sub-Committee specifically delegates it to another officer of the authority.
3. The Chief Executive and the Corporate Directors may exercise any functions of the Council or the Executive which have been delegated to any other officer and may delegate decisions or functions to one or more officers in any of the Council's Directorates, except when prohibited to do so by this Constitution or by law.
4. Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.
5. The Council's Scheme of Delegation to Officers is contained in Sections 23, 24 and 25 and supplementary documents contained in Part D of the Constitution.
  - Section 23 – Corporate Scheme of Delegation – The Chief Executive and Corporate Directors – Delegations (This Section)
  - Section 24 - the functions and responsibilities of the Chief Executive and the Corporate Directors;
  - Section 25 - Statutory Officers

#### Part D Documents

- Section 45 – Statutory and Proper Officer Appointments.
- Section 46 – the Councils Corporate Operating Procedures and which cover a general range of functions that apply to all the Council's Directorates; and

6. Corporate Directors may delegate decisions or functions for which they are responsible to one or more officers within their directorate provided that they maintain a Directorate Officer Scheme of Delegation which is notified to the Monitoring Officer.
7. The Corporate and Officer Schemes of Delegation are made under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation. They delegate all the powers and duties necessary for the discharge of the Council's functions and not specifically reserved to the Mayor or the Mayor in Cabinet, the Council or a Committee or Sub-Committee of Council to the Officers. The delegations include:
  - All functions powers and duties of the Authority, whether under any specific legislation identified in the scheme or not.
  - All powers incidental to that legislation including the application of the incidental powers under Section 111 of the Local Government Act 1972 and including management of the human and material resources made available for the service areas unless specifically reserved to Council, a Committee or Sub-Committee of the Council or to the Mayor, the Mayor in Cabinet or a Cabinet Sub-Committee .

An Officer may decline to exercise delegated powers and instead report to the Mayor, the Mayor in Cabinet, a Cabinet Sub-Committee or to the appropriate Council Committee/Sub-Committee.

8. The Corporate and Officer Schemes of Delegations do not delegate:
  - Any matter reserved to the Council by law or by Council's Constitution.
  - Any matter which is a function which cannot by law be discharged by an officer.
  - Any matter which is specifically excluded from delegation by this Scheme or by resolution of Council, a Committee or a Sub-Committee (in the case of a Council function), or the Mayor, Mayor in Cabinet or cabinet sub-Committee( in the case of an executive function)
  - Any matter where an Officer has declined to exercise delegated powers and instead reports to the Mayor, Executive or appropriate Committee

9. Delegated powers must always be exercised in accordance with

- The Council's Budget and Policy Framework.
- The Council's approved Budget.
- The relevant Procedure Rules set out in this Constitution.
- Policies, plans and programmes that have been approved by or on behalf of the Council.
- Any instructions given by the Chief Executive.

Officers exercising delegated powers should also have regard to:

- Any legal advice given by the Corporate Director, Governance.
- Any financial advice given by the Corporate Director, Resources.
- Any appropriate technical or other advice given by a suitably qualified Council officer.
- Any statutory codes of conduct or statutory guidance, and any other codes and protocols as may be approved by the Council or the Mayor and Executive.
- any previous decision of the Council on any relevant policies or procedures.
- All other parts of this Constitution.

10. Delegated powers must be exercised within the revenue and capital budgets for the relevant service as approved by Council, subject to any variation thereof permitted by the Council's Financial and Contract Procedure Rules, and, if appropriate, in accordance with the provisions of Section 3 (How Decisions are Made) in this Constitution.

a) Officers do not take "key decisions" as defined in Section 3 of this Constitution, however;

- Any officer decision which results in the local authority incurring expenditure which is, or the making of savings which are, below the threshold for a key decision (currently £1million) but are above £250,000 must be published on the Council's website 'as soon as practicable' (and following any guidance from the Monitoring Officer) after the decision has been taken.

11. In exercising any delegated function, the following principles apply:

- Corporate Directors must ensure that this Scheme is fully implemented, monitored, maintained and regularly reviewed and any changes required to Directorate Schemes are reported to the Monitoring Officer.
- Corporate Directors and Divisional Directors may further delegate their powers to officers within their Directorate or withdraw powers provided that
  - a) such action is in writing, is subsequently included in the Directorate's Officer Scheme of Delegation and the Monitoring Officer is notified in writing.

- b) any such delegation, while being as near to the point of service delivery as possible, is only to officers within their Directorate that hold the appropriate level of responsibility
12. The Corporate and Directorate Schemes of Delegations will be superseded in any case where a Council or Mayoral decision expressly delegates any of the powers in this Scheme to a specific officer or officers whether for a single event, decision or transaction or permanently.
13. Where it is considered that in exercising a delegated power or duty a departure in policy, procedure or a significant change in financial practice is likely to be involved, the decision maker shall consult with the Corporate Director, Governance and/or the Corporate Director, Resources as appropriate, who shall, if necessary, refer the matter to the Mayor, the Mayor in Cabinet or the appropriate Council Committee/Sub-Committee.
14. Where any function is delegated to an officer, that officer may choose not to exercise that function and may instead refer a matter to Council, the Mayor, the Mayor in Cabinet or relevant Council Committee as appropriate with the agreement of the appropriate Corporate Director. The criteria that officers may have to consider when determining whether to exercise a function could include-
- Whether the decision may incur a significant social, economic reputational or environmental risk.
  - The likely extent of the impact of the decision both within and outside of the borough.
  - Whether the decision is likely to be a matter of political controversy.
  - The extent to which the decision is likely to generate substantial public interest.
15. If at any time, the Authority acquires a new duty, power or function, in the absence of any Member decision with regard to delegation, the Chief Executive and the Corporate Director with responsibility for the relevant service shall be deemed to have full delegated authority to discharge the duty, power or function on the authority's behalf unless it is expressly reserved to the Council, a Council Committee or Sub-Committee or the Mayor/Mayor in Cabinet either by law or in this Constitution.
16. Any function or power which may be discharged by a Corporate Director, may also be discharged by any person(s) formally "acting-up" into that post or an "interim" post holders or who is deputising (whether on a full, part time or on an ad hoc basis) for that post or occupies a successor post following any reorganisation, restructure or similar process.
17. The Mayor, Mayor in Cabinet, a Cabinet Sub-Committee or a Council Committee/Sub-Committee may reserve to themselves decisions delegated to officers, by giving notice to the officer holding the delegated power or to the Chief Executive of their intention to do so.

18. References in the Corporate and/or Officer Schemes of Delegations to any statute, statutory instrument, regulation, rule, circular, agency or other agreement or any such matter in respect of which a power or duty is delegated shall be deemed to include any modification or re-enactment of the same as may be made from time to time.

## 24 Functions of the Chief Executive and Corporate Directors

### 1. The Chief Executive

The Chief Executive is appointed as Head of Paid Service under s 4 of the Local Government and Housing Act 1989 to carry out the Council's statutory obligations to report to the Council as appropriate with regard to the way in which the overall discharge by the Council of its different functions is co-ordinated, the number and grades of staff required for the discharge of these functions, the way in which these people are organised and managed, and the way in which they are appointed under that Act. This post is responsible for the corporate and overall strategic management of the Council as a whole and is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the Council. Its overriding responsibility is to the Council and not to the Mayor, any party-political group, or other grouping of Members. It must report to and provide information for the Executive, the full Council, the Overview and Scrutiny Committee and other Committees. The Political neutrality of the office holder must be respected at all times.

- (a) **Working with the Mayor.** The Chief Executive works closely with the Mayor to assist in the development of the Mayor's strategic policy and to ensure that such is then put into practice and, in that regard, will:
  - (i) **Strategic direction.** Ensure that the Mayor and Council's priorities and goals can be implemented in a timely, efficient and innovative way through focused strategies, projects and programmes.
  - (ii) **Policy advice.** Act as the principal policy adviser to the Mayor and Members and will secure the best professional advice on all relevant matters in respect of the Council's functions and services.
  - (iii) **Partnerships (internal).** Develop a professional partnership with the Mayor and Members to ensure that the Council's vision, goals and core values are made reality and to provide a clear sense of direction, optimism and purpose and marshal the resources of the whole organisation to this end.
  - (iv) **Partnerships (external).** Assist the Mayor in partnership working by taking the lead in developing effective partnerships at management level with other public agencies, private companies and local community organisations to achieve better public services and improved results for local people.
- (b) **Emergency or Extreme Urgency**
  - (i) The Chief Executive may exercise any executive function in cases of emergency or extreme urgency whether or not reserved to the Mayor and following the exercise of such power will provide a written report to the Mayor

setting out the decision taken and the reason for it including the reasons for emergency or extreme urgency.

- (ii) The Chief Executive may exercise any non-executive function in cases of emergency or extreme urgency whether or not reserved to the Council and following the exercise of such power will provide a written report to the Council setting out the decision taken and the reasons for it, including the reasons for emergency or extreme urgency.

**(c) Ensuring overall correctness of decision making**

The Chief Executive is also responsible for ensuring that all decisions made by the Mayor and the reasons for them are made public and will ensure that Council Members are aware of decisions made by the Mayor and of those made by officers who have delegated executive responsibility.

If the Chief Executive considers that any proposal, decision or omission raises a significant concern it must be reported in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function. Such a report will have the effect of immediately stopping the proposal or decision being implemented until the report has been considered. The report must be considered within 21 days at a meeting of either Council or the Mayor/Mayor in Cabinet as appropriate.

As soon as practicable after either the Council or the Mayor/Mayor in Cabinet has considered this report, it shall prepare and publish a report that will include;

- i. what action it has taken in response to the report
- ii. what action it proposes to take in response to the report and when it proposes to take that action;
- iii. the reasons for taking that action, or the reason for not taking any action.

The exercise of this function needs to be considered in conjunction with the Monitoring Officer ensuring lawfulness and fairness of decision making and the Chief Finance Officer to ensure lawfulness and financial prudence of decision-making.

- (d) Management Structure.** The Chief Executive will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers.
- (e) Restrictions on 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.



## 2. **Functions of the Corporate Director, Governance**

The Corporate Director, Governance is appointed under the provisions of s 5 of the Local Government and Housing Act 1989 to be the Council's Monitoring Officer and to carry out the Council's statutory functions under that Act in respect of matters of legality, conduct, and probity. The Monitoring Officer may not be the Head of Paid Service or the Chief Finance Officer, but will liaise as appropriate with the Head of Paid Service in the discharge of their functions.

- (a) **Maintaining and monitoring the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that each Member of the authority has access to a copy of this Constitution upon delivery of that individual's declaration of acceptance of office on the Member first being elected to the Council. The Monitoring Officer will ensure that the Constitution is published on the Council's website and that the Constitution can be purchased by members of the local press and the public on payment of a reasonable fee.

The Monitoring Officer will monitor and review the operation of the Constitution and may make recommendations to ensure that the aims and principles of the Constitution are given full effect. A key role is to be aware of the strengths and weaknesses of the Constitution and to make recommendations for ways in which it could be amended in order better to achieve the purpose of the Constitution. In undertaking this role the Monitoring Officer may:

- i. Observe meetings of different parts of the Member and officer structure.
- ii. Undertake an audit trail of a sample of decisions.
- iii. Record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders.
- iv. Compare practices in this authority with those in other comparable authorities or national examples of best practice.

### (c) **Changes to the Constitution.**

The Monitoring Officer

- i. can approve all non-material changes to the Constitution including those that reflect decisions taken by the Council or changes in legislation or to correct matters of fact; and
- ii. can recommend to General Purposes Committee and /or Council for approval material changes to the Constitution.

(Note that Part D of the Constitution sets out its own delegated authorities to change Sections within that part of the document.)

- (d) Interpreting the Constitution.** The Monitoring Officer will advise as to the construction or application of the Constitution.
- (e) Ensuring lawfulness and fairness of decision making.** If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness; or if any decision or omission has given rise to maladministration, after consulting with the Head of the Paid Service and Chief Finance Officer, they will report in writing to the Mayor in relation to an executive function or to Council in relation to a non-executive function. Such a report will have the effect of immediately stopping the proposal or decision being implemented until the report has been considered. The report must be considered within 21 days at a meeting of either Council or by the Mayor/Mayor in Cabinet as appropriate.

As soon as practicable after Council or the Mayor/Mayor in Cabinet has considered the Monitoring Officer's report, it shall prepare and publish a report that will include:

- i. what action it has taken in response to the report;
  - ii. what action it proposes to take in response to the report and when it proposes to take that action;
  - iii. the reasons for taking that action, or the reasons for not taking any action. (The exercise of this function needs to be considered in conjunction with the function of the Chief Executive to ensure lawfulness and fairness of decision making and the function of the Chief Finance Officer to ensure lawfulness and financial prudence of decision-making).
- (f) Supporting the Standards Advisory Committee.** The Monitoring Officer is responsible for promoting and maintaining high standards of ethical conduct throughout the Council and will provide support to the Standards Advisory Committee, in particular by
- (g) Receiving reports.** receiving and having regard to recommendations from the Standards Advisory Committee regarding Member conduct.
- (h) Conducting investigations.** Where an investigation is required in accordance with the agreed arrangements for dealing with an alleged breach of the Code of Conduct by a Member, conducting or arranging for that investigation to be carried out and making reports or recommendations in respect of them to the Standards Advisory Committee or its Sub-Committee as appropriate.
- (i) Register of Interests.** Establishing and maintaining a Register of Interests of Members and Co-opted Members of the Council.
- (j) Advising whether Executive decisions are within the budget and policy framework.** Advising whether decisions of the Mayor/Mayor in Cabinet are in accordance with the budget and policy framework.
- (k) Providing advice.** Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity (and budget and policy framework issues) to the Mayor, all Councillors and officers.
- (l) Determining Dispensations.** Determining applications for dispensations from the Code of Conduct where the number of Members otherwise precluded from

taking part in a decision would impede the conduct of business or interfere with the political balance of the decision-making body and also determining applications for dispensations made by individual Members. The Monitoring Officer will report at least annually to the Standards Advisory Committee on any dispensations granted.

**(m) The Governance** portfolio currently includes: Legal Services; Democratic Services; Executive Support; the Mayor's Office; Strategy Policy and Performance; Communications; Elections; and Registrars. These functions can be varied at any time by the Chief Executive who may also allocate to the role additional functions and responsibilities. The Corporate Director, Governance:

- (i) Is authorised to make or amend an appointment to a position on a Committee, Sub-Committee or Panel of the Council in accordance with the nomination by a political group, where the position has previously been allocated by the Council to that Group. Any nomination received by them after 5.00pm on any day will take effect no earlier than 9.00am on the next working day.
- (ii) Is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where such action is considered to be necessary to protect the Council's interests and may designate nominated officers to carry out this function on their behalf.
- (iii) Consult with and instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the Council, and the negotiation and settlement of legal disputes on behalf of the Council, the Mayor, Committees of the Council or officers and arrangements for their representation in any court, public inquiry or other forum where formal representation is considered to be proper, including the incurring of such fees in respect thereof as may be appropriate.
- (iv) Is authorised to sign any document that is necessary to any legal procedure or proceedings on behalf of the Council, or to authorise another to sign, unless any enactment otherwise authorises or requires, or the Council has given specific authority to some other person.
- (v) Is authorised to sign contracts (and similar documents where intended to have legal binding effect) on behalf of the Council, either in their own name or on behalf of the Council, where any required authority or approval of the Mayor/Mayor in Cabinet, a Committee or a Sub-Committee has been obtained, or where such authority has been delegated to another officer of the Council and that officer has requested the Corporate Director Governance to do so.
- (vi) Will keep the Common Seal of the Council in a safe place. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which should be sealed. The affixing of the Common Seal will be attested by the Corporate Director Governance or any other duly authorised person.
- (vii) May authorise officers to appear on behalf of the Council in proceedings in the magistrate' courts, pursuant to section 223 of the Local Government Act 1972.

- (viii) May authorise officers to appear on behalf of the Council in any proceedings in the county court in relation to the recovery of possession of a house belonging to the Council or the recovery of any rent, mesne profits, damages or other sum claimed in respect of the occupation by any person of such a house, pursuant to section 60 of the County Courts Act 1984.
- (ix) The Corporate Director, Governance has authority to make or amend an appointment to a position on a committee or panel of the Council in accordance with the nomination by a political group, where the position has previously been allocated by the Council to that Group. Any nomination received by the Corporate Director, Governance in accordance with the above provision after 5.00 p.m. on any day will take effect no earlier than 9.00 a.m. on the next working day.

**(n) Restrictions on post.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### 3. Functions of the Corporate Director, Resources

The Corporate Director, Resources has the statutory responsibilities defined in s 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988 as the Council's Chief Finance Officer to ensure the proper administration of the financial affairs of the Authority including:

- Ensuring the proper administration of the Council's financial affairs.
- Setting and monitoring compliance with financial management standards.
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Providing financial information (in conjunction with Senior Managers).
- Ensuring that the annual statement of accounts is prepared in accordance with appropriate financial standards and within the statutory deadlines.
- Preparing the revenue budget and capital programme relating to the General Fund and the Housing Revenue Account

In Addition the role of the Corporate Director, Resources is:

- (a) **Ensuring lawfulness and financial prudence of decision-making.** If the Chief Finance Officer considers that any proposal, decision or course of action which would involve the Council 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 then after consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report in writing to the Mayor in relation to an executive function or to Council in relation to a non-executive function, and to the Council's external auditor. Such a report will have the effect of immediately stopping the proposal or decision being implemented until such time as the report has been considered. The report must be considered within 21 days at a meeting of either Council or the Mayor as appropriate.

As soon as practicable after Council or the Mayor/Mayor in Cabinet has considered the report, it shall prepare and publish a report that will include:

- (i) what action it has taken in response to the report;
  - (ii) what action it proposes to take in response to the report and when it proposes to take that action;
  - (iii) the reasons for taking that action, or the reasons for not taking any action.
- The exercise of this function needs to be considered in conjunction with the function of the Monitoring Officer to ensure lawfulness and fairness of decision making and the function of the Chief Executive to ensure lawfulness and financial prudence of decision-making.

- (b) **Administration of financial affairs.** The Chief Finance Officer has responsibility for the proper administration of the financial affairs of the Council including:
- Determining the accounting procedures and records for the authority.

- Maintaining a continuous review of the Financial Regulations and issuing updates as necessary.
- Reporting breaches of the Financial Regulations to the Audit Committee

The Chief Finance Officer will also

- (c) **Contribute to corporate management.** In particular through the provision of professional financial advice.
- (d) **Provide advice** on the scope of powers and authority to take decisions, financial impropriety, probity (and budget and policy framework issues) to the Mayor and all Councillors and will support and advise the Mayor and Councillors and officers in their respective roles.
- (e) **Give financial information** provide financial information to the media, members of the public and the community.
- (f) **The Resources** portfolio currently includes: Finance, Procurement and Audit; HR and Transformation; IT; Revenues and Benefits; and Customer Services. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

#### 4. **Functions of the Corporate Director, Health, Adults and Community**

The Corporate Director, Health, Adults and Community is the Statutory Director of Adult Social care under s 6 of the Local Authority Social Services Act 1970 as amended by s18 of the Children Act 2004 and is responsible for the delivery of those local authority social services functions listed in Schedule 1 of the Local Authority Social Services Act 1970 (as amended), other than those for which the Director of Children's services is responsible, and the public health functions contained in the Health and Social Care Act 2012.

The Corporate Director Health Adults and Community is responsible for implementing and ensuring compliance with any statutory guidance issued by the Department of Health or other Government department and is currently required to:-

Assess local needs and ensure availability and delivery of a full range of local authority services;

- Give professional leadership, including workforce planning;
- Lead the implementation of standards;
- Manage cultural change;
- Promote local access and ownership and drive partnership working;
- Deliver an integrated whole systems approach to supporting communities; and
- Promote social inclusion and wellbeing.

The Health, Adults and Community portfolio currently includes Adult Social Care; Community Safety; Public Health (and the Director, Public Health reports to him/her); and Health and Integrated Commissioning. These functions can be varied at any time

by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

## **5. Functions of the Corporate Director, Children and Culture**

The Corporate Director, Children and Culture is the Council's Statutory Director of Children's services under s 18(7) of the Children Act 2004 with statutory duties to discharge the education and children's social services functions of the local authority including those detailed as follows:

- (a)** education functions conferred on or exercisable by the Council;
- (b)** functions conferred on or exercisable by the Council which are social services functions so far as those functions relate to children;
- (c)** the functions conferred on the authority under sections 23C to 24D of the Children Act 1989 (so far as not falling within paragraph (b));
- (d)** the functions conferred on the authority under sections 10 to 12, 12C, 12D and 17A of the Children Act 2004;
- (e)** any functions exercisable by the Council under section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children;
- (f)** the functions conferred on the Council under Part 1 of the Childcare Act 2006; and
- (g)** any function conferred on the authority under section 2 of the Childcare Act 2016.

The Children and Culture portfolio currently includes Children's Social Care; Education and Partnership, Sports, Leisure and Culture; and Youth and Children's Commissioning. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

## 6. Functions of the Corporate Director, Place

The Place portfolio currently includes responsibility for discharging all the Council's duties, powers and functions in the following areas:-

Property and Major Programmes; Growth and Economic Development; Housing and Regeneration; Planning and Building Control; Public Realm (including Highways, Trading Standards and Environmental Health) and Tower Hamlets Homes and the award of contracts for capital projects. These functions can be varied at any time by the Chief Executive, who may also allocate to the role additional functions and responsibilities.

The Corporate Director, Place is also:

**(a) Determining applications for Licences.**

Authorised to consider and determine any applications for licenses not specifically reserved to the Licensing Committee under the Constitution and all applications for licences where no objections have been received.

**(b) Acquisitions and Disposals at full market value.**

Required to issue guidelines on best practice for the disposal of land based assets and to approve the purchase or sale of land if it has been declared surplus by the Mayor/Mayor in Cabinet and if authority to do so has been delegated to him/her.

**(c) Acquisitions and Disposals at below market value.**

Authorised to recommend to the Mayor/Mayor in Cabinet for acceptance, disposals which are proposed to be less than the unrestricted market value as defined by the General Disposal Consent (England) 2003 and/or where State Aid issues may arise. The report shall make the level of undervalue explicit and the report will need to set out the well-being benefits to be derived and provide a statement that the wellbeing "value" matches or exceeds the value foregone.

Where a sale is pursuant to Section 123 Local Government Act 1972, Section 32 Housing Act 1985 or Section 25 Local Government Act 1988, consent of the Secretary of State may be sought as necessary, unless the sale falls within the General Housing Consents 2013 issued pursuant to powers contained in sections 32, 33 and 34 Housing Act 1985, 133 of the Housing Act 1988, which permit certain disposals to occur without the need to secure express consent.

**(d) Is authorised to accept a late offer for land/property, with the prior agreement of the Corporate Director, Governance, if to do so, would ensure that the Council secures best consideration, provided other bids have not been opened.**

**(e) Compulsory Disposals.**

Is Authorised to approve any sale or lease of land pursuant to the Right to Buy or the Right of Enfranchisement under the Housing Act 1985, the Leasehold Reform Act 1967 or The Leasehold Reform Housing and Urban Development Act 1993 subject to compliance with the relevant statutory procedures.



## 25 Statutory Officers

1. The Council is required to appoint a number of officers to undertake specific duties by statute. These are known as ‘Statutory Officers’. In addition, the Council has a number of important duties which it designates to certain officers. These are called ‘proper officer’ roles.
2. The Council has designated the following statutory officer positions to the Chief Executive and Corporate Directors of the Council.
3. In the event of any Officers mentioned below being for any reason unable to act or of any of their posts being vacant, the Chief Executive or in their absence, the Corporate Director, Governance, and in the absence of both, the Corporate Director, Resources, shall nominate an Officer to act in their stead.

<b>LEGISLATION</b>	<b>DESIGNATION</b>	<b>POST</b>
Section 4, Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 5, Local Government and Housing Act 1989	Monitoring Officer	Corporate Director, Governance
Section 151 Local Government Act 1972 (and section 114 of the Local Government Finance Act 1988)	Chief Finance Officer	Corporate Director, Resources
Section 6 Local Authority Social Services Act 1970	Director of Adult Social Services	Corporate Director, Health, Adults and Community
Section 18 Children Act 2004	Director of Children’s Services	Corporate Director, Children and Culture

4. The Council has also allocated to other officers a number of statutory / proper officer roles which are set out in Part D Section 45 of this Constitution.

## 26 Council Procedure Rules

### CONTENTS

<b>Rule</b>	<b>Subject</b>
1	Annual Meeting of Council
2	Budget Meeting(s)
3	Ordinary Meetings
4	Extraordinary Meetings
5	Time, Place, Postponements and Cancellations of Meetings
6	Notice of and Summons to Meetings
7	Chair of Meeting
8	Quorum
9	Duration of Meeting
10	Questions by Councillors
11	Motions on Notice
12	Motions and Amendments – Without Notice
13	Rules of Debate
14	Procedural Motions
15	Previous Decisions and Motions
16	Voting
17	Petitions
18	Standards Advisory Committee Reports
19	Exclusion of the Public
20	Councillors' Conduct
21	Disturbance by Public
22	Filming and Recording
23	Suspension and Amendment of Council Procedure Rules
24	Specific Exemptions applying to other meetings/Committees and Sub-Committees
	<b>'Virtual Meeting Procedures'</b>
25	Introduction
26	Circulation of Papers and Access to Information
27	Executive Decision Making
28	Meeting Participation and Attendance
29	At the meeting
30	Voting
31	Technical and other issues
32	Standards and Code of Conduct
<b>Appendix</b>	
1	Petition Scheme

## **1. ANNUAL MEETING OF THE COUNCIL**

- 1.1 Timing and Business.** 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 annual meeting will:

- (a)** elect a person to preside if either the Speaker or the Deputy Speaker are not present;
- (b)** elect the Speaker of the Council;
- (c)** elect the Deputy Speaker of the Council;
- (d)** receive any declarations of interest;
- (e)** approve the minutes of the last meeting which will then be signed by the Speaker;
- (f)** receive any announcements/updates from the Speaker of the Council and/or the Chief Executive and/or the Young Mayor;
- (g)** note any appointment of Cabinet Councillors and/or the Deputy Mayor made by the Mayor;
- (h)** appoint at least 1 Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (i)** agree the Scheme of Delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (j)** approve a programme of Ordinary Meetings of the Council for the year (if not already agreed). In an election year the schedule of meetings may be reviewed at the Annual Meeting if it has already been agreed at Council prior to the first meeting in May;
- (k)** the Mayor shall report on any appointments of outside bodies;
- (l)** the Mayor shall report on circumstances where the Special Urgency provisions have been used during the year preceding the Annual Meeting;
- (m)** receive a report on any changes made to the Council's Constitution since the last Annual Meeting; and
- (n)** consider any business set out in the notice convening the meeting including the Annual State of the Borough Debate at 1.3.

## **1.2 Selection of Councillors on Committees**

At the Annual Meeting, the Council will:

- (a) decide which Committees to establish for the municipal year;
- (b) decide the size and terms of reference for those Committees;
- (c) decide the allocation of seats to political groups in accordance with the political proportionality rules;
- (d) receive nominations of Councillors to serve on each Committee; and
- (e) appoint to those Committees except where appointments have been delegated by the Council or are exercisable only by the Mayor or Executive;
- (f) Elect Chairs to those Committees except where appointments have been delegated by the Council or are exercisable only by the Mayor or Executive.

but this is without prejudice to the right of the Council at any time to establish or dissolve any non-Executive Committee or to review its size and terms of reference.

## **1.3 The Mayor will lead an `Annual State of Borough` debate to provide an opportunity for a discussion on policy matters and issues affecting the Council and the Borough; the following procedure shall apply:**

- (a) The debate will last for up to 1 hour;
- (b) The debate will begin with a 15 minute introduction by the Mayor;
- (c) The remaining 45 minutes will be divided proportionally (to the nearest minute) between the political groups on the council (this is subject to a rule that the opposition group(s) must have a minimum of 5 minutes speaking time). It will be for each group to determine how much time each of their speakers will be designated subject to a minimum speech length of two minutes. There is no maximum speech length providing that group's overall time limit is not breached;
- (d) Lists of speakers must be provided to the Monitoring Officer before the start of the meeting;
- (e) The 45 Minute Debate will end with the Mayor or the Mayor's appointee;
- (f) The Mayor and the Group Leaders of the other political groups may speak twice should they wish. All other Councillors may speak only once;
- (g) There will be no motions, reports or votes on the debate.

## **2 BUDGET MEETING(S)**

### **2.1 A meeting will take place on a date decided by Council or the Chief Executive. The purpose of this meeting will be to determine the Council's budget and set the Council Tax for the following financial year. The Budget Meeting will be conducted in accordance with the provisions of this rule.**

- 2.2** The order of business at the Budget Meeting will be as follows:-
- (a)** As per Rules 1.1(a), (d) and (f);
  - (b)** to receive any petitions which only relate to the Council's budget or to the setting of the Council Tax in line with the procedures set out in the Council's Petition scheme;
  - (c)** to consider the report from the Mayor and Executive upon the Council's budget and setting of the Council Tax for the following year and any associated business; and
  - (d)** any other business which by statute or in the opinion of the Chief Executive after consultation with the Speaker of the Council requires to be transacted at the meeting;
- 2.3** Rules 10 and 11 of these Rules shall not apply to the Budget Meeting.
- 2.4** Motions proposing amendments to the proposals shall be submitted in writing to the Monitoring Officer by no later than 5.00 p.m. on the Friday before the Budget Meeting to enable the preparation of the advice of the Chief Finance Officer and any amendments shall be circulated to the Mayor and Councillors, with any officer comments, at least 24 hours, before the meeting.
- 2.5** Other than amendments notified in advance as above, any Member must state the reason for urgency for their amendment and in particular why the need for the amendment could not reasonably have been foreseen prior to the deadline for submission of amendments set out in Paragraph 2.4 above and, when introducing the topic, the Speaker will remind Members of this provision. Following the above statement, the advice of the Monitoring Officer, Section 151 Officer and Chief Executive must be sought should Council wish to debate any further substantial amendment without notice.
- 2.6** The Speaker will remind the Councillors at the start of the meeting of the importance, where possible, of all amendments being moved at the beginning of the debate or as soon as the need for the amendment is identified; and before moving to the 'right of reply' and voting stage of the meeting, the Speaker will give a final invitation for any further amendments. No new amendment may be proposed once the call for the vote has commenced.
- 2.7** When moving the budget proposals of the Mayor and Executive, the Mayor and/or another Executive Councillor may speak for up to 10 minutes.
- 2.8** Once the proposals of the Executive have been moved and seconded the other Political Group Leaders (or their nominee) shall then be invited to speak for up to 5 minutes. The order of speaking shall be commensurate with the number of Councillors in each group from the Leader of the largest group to the Leader of the smallest group. Where groups are of equal size, the order of speaking shall be at the Speaker of the Council's discretion.

- 2.9** During the course of their speeches Group Leaders (or their nominees) shall move any amendments they have notified prior to the deadline.
- 2.10** Once each Group Leader (or their nominee) has been invited to speak the Speaker of the Council shall invite any other Councillor who has notified an amendment prior to the deadline to speak for up to 3 minutes and during the course of their speech that Councillor shall move their amendment.
- 2.11** The Council will then debate the matters before it for consideration. The order of speakers shall be at the discretion of the Speaker of the Council. Subject to Rules 2.12 and 2.13 below, a Councillor may speak only once during the debate and in the course of their speech may address the proposals of the Executive and/or any amendment(s) that may be moved. All speeches shall be limited to a maximum of 3 minutes.
- 2.12** At the discretion of the Speaker of the Council a Group Leader (or their nominee) who has previously spoken in accordance with Rule 2.8 of these Procedure Rules may speak again during the general debate and any such further speech by a Group Leader (or their nominee) or any other Councillor shall be in accordance with the time limits and procedural requirements of Rule 13 of these Rules.
- 2.13** At the conclusion of the general debate the Mayor or on his behalf any other Executive Councillor who may have moved the proposals of the Executive may exercise a right of reply for up to 3 minutes.
- 2.14** The Council will then vote on any amendments that have been moved and seconded and not withdrawn, in the order in which they were moved. Each amendment shall be disposed of in turn and in its entirety.
- 2.15** Following the voting on all amendments Council shall make its determination. Pursuant to the Budget and Policy Framework Procedure Rules if the Council adopts the proposals of the Executive without amendment the decision shall become effective immediately.
- 2.16** If Council wishes to make any objection or amendment to the Executive's proposals, it shall require the Mayor and Executive to re-consider in the light of those objections or amendments.
- 2.17** At the Budget Meeting Rules 12.1(k)(iii) (Motion without notice to suspend a Procedure Rule) and 23 (Suspension and amendment of Council Procedure Rules) of these Procedure Rules shall not apply.

### **3. ORDINARY MEETINGS**

- 3.1** Ordinary meetings of the Council will take place in accordance with the programme below:

**Introductions, Minutes, Declarations, Announcements:**

- (a)** As per Rules 1.1(a), (d), (e) and (f);

**Mayor's Report**

- (b) receive the Mayor's report, who may speak for up to 6 minutes on the item;
- (c) the Speaker shall invite the other Political Group leaders to respond for up to 2 minutes each;
- (d) the Speaker shall invite the Mayor to respond to the other Political Group leaders for up to 2 minutes.

#### **Public Petitions**

- (e) this is limited to up to 4 Petitions and the Petition Scheme Procedures apply;
- (f) the relevant Councillor shall report the Council's response to Petitions received;
- (g) all other petitions that have been submitted will be noted and the Speaker will announce where the Petitions will be sent for a detailed response;

#### **Administration Motion Debate**

- (h) consider an Administration Motion in accordance with Rules 11 and 13;

#### **Opposition Motion Debate**

- (i) consider a Motion from an Opposition Group in accordance with Rules 11 and 13;

#### **Reports**

- (j) receive reports from the Executive and the Council's Committees requiring a decision and receive questions and answers on any of those reports as required by law or specifically referred by those bodies;
- (k) to receive other reports as required; and

#### **Questions by Councillors on Notice**

- (l) to receive questions from Councillors; and

#### **Motions**

- (m) consider motions as set out in Rule 11.

## **4. EXTRAORDINARY MEETINGS**

**4.1** Those listed below may request the Chief Executive to call extraordinary Council or Committee meetings in addition to ordinary meetings:

- (a) Council by resolution;
- (b) The Speaker;
- (c) The Monitoring Officer; or
- (d) Any 5 Councillors of Council or a relevant Committee if they have signed a requisition that has been presented to the Speaker of the Council and they have refused to call a meeting or has failed to call a meeting within 7 days of such.

**4.2** When requested, the Monitoring Officer will in consultation with the Chief Executive shall call a meeting of the Council or Committee unless the Chief Executive is of the opinion that holding such a meeting would not be an efficient use of resources and

the subject matter of the business can conveniently wait until the next Ordinary Meeting of the Council or Committee.

- 4.3 Only the business specified in the resolution, request or requisition which led to the calling of the Extraordinary Meeting can be conducted at this meeting.

## **5. TIME, PLACE, POSTPONEMENT AND CANCELLATIONS OF MEETINGS**

- 5.1 All Council meetings will commence at 7.00pm and take place at the Town Hall unless the Speaker or the Chair of the relevant Committee/Sub-Committee decides otherwise. This will be in consultation with the Monitoring Officer.
- 5.2 The Monitoring Officer in consultation with the Chief Executive is authorised to either cancel or postpone a meeting of Council or any meeting of Cabinet or a Committee/Sub-Committee if it is deemed that there is insufficient business to transact or some other appropriate reason warranting its cancellation/ postponement.
- 5.3 The Monitoring Officer is authorised to vary the time, date and place of any meeting where there is good justification in consultation with the Chief Executive , the Speaker, the Mayor, Chair of the Committee/Sub-Committee and other Political Group Leaders as appropriate.

## **6. NOTICE OF AND SUMMONS TO MEETINGS**

- 6.1 The Monitoring Officer will give notice to the public of the time and place of any meeting of Council, Cabinet or Committee/Sub-Committee in accordance with the Access to Information Procedure Rules at Part 4.2 of the Constitution.
- 6.2 At least 5 clear working days before a meeting not including the day the notice is given and the day of the meeting, the Monitoring Officer will send a summons to the Mayor and Councillors giving the date, time and place of the meeting, specify the business to be transacted, and will be accompanied by any available reports. If necessary, addendum reports to the reports on the agenda will be permitted within the preceding five days to the meeting or at the meeting subject to the report setting out 'reasons for urgency'.

## **7. CHAIR OF MEETING**

- 7.1 Participation in a Cabinet, Committee, Panel or other formal meeting by a Councillor or other person who is not an appointed Councillor or substitute Councillor of the meeting shall be at the discretion of the person chairing the meeting.

## **8. QUORUM**

- 8.1 Subject to any specific quorum requirements set out in the terms of reference of a particular body, the quorum of a meeting will be one quarter of the whole number of Councillors or 3 voting Councillors, whichever is the greater.
- 8.2 Subject to any exceptions in Rule 25, if a quorum is not reached at the scheduled start time for a meeting, the Chair/Vice-Chair shall have the discretion to extend the



start time by up to 15 minutes. If a quorum is not achieved at the scheduled start time, or after any extension, the meeting will stand adjourned.

- 8.3** During any meeting if the Chair counts the number of Councillors present and declares there is not a quorum, then the meeting will adjourn immediately. Remaining business will be considered at a time, date and place fixed by the Speaker, Chair or Monitoring Officer. If a date is not fixed, the remaining business will be considered at the next ordinary meeting.

## **9. DURATION OF MEETING**

- 9.1** Subject to any exceptions in Rule 24, all Council Meetings will end after a period of 3 hours but an extension may be agreed by resolution to extend the meeting for an additional period of up to 30 minutes.
- 9.2** If the business of a Council meeting has not been concluded after it has convened for 3 hours or 3½ hours (if the extension in rule 9.1 is applied), when the Councillor speaking has concluded their speech, the Chair will draw the attention of the meeting to this rule. If a matter is being debated, the debate shall immediately be concluded as if the motion, 'That the question be now put' had been moved and carried.
- 9.3** Any matters, (other than motions on notice) on the agenda that have not been dealt with by the end of the meeting shall be deemed formally moved and seconded together with amendments notified in writing to the Monitoring Officer by noon on the day of the meeting. They will be put to the meeting without any further discussion. A recorded vote under rule 16.4 will be taken, if called for and the requirements of that rule are met, on matters dealt with under this guillotine. During the process in this rule the only other matters which may be raised are points of order. When all matters have been dealt with, the Chair will declare the meeting closed. Any motions on notice under Rule 12 not dealt with before the guillotine is applied shall be deemed to have fallen with the exception of the motions for 'Administration and Opposition Motion Debates' which will be voted on along with any amendments received by noon on the day of the meeting.

## **10. QUESTIONS BY COUNCILLORS**

- 10.1** A Councillor may ask the Mayor or the Chair of a Committee/Sub-Committee questions without notice about an item in a report of the Executive or of that Committee/Sub-Committee when it is being considered.
- 10.2** Subject to rule 10.4, at an Ordinary meeting of Council a Councillor may ask the Speaker or the Mayor, a question about any matter in relation to which the Council has powers or duties or which affects the Borough. Questions can also be put to the Chair of any Committee/Sub-Committee in relation to any matters that is within the Committee/Sub-Committee's remit.
- 10.3** Questions at an Extraordinary Council meeting must relate to a matter on that agenda only.
- 10.4** Questions relating to Executive functions and decisions taken by the Mayor will be put to and should be answered by the person responsible for those decisions,

namely the Mayor, unless he delegates such a decision to a Councillor who will therefore be responsible for answering the question. In the absence of the Mayor, the Deputy Mayor will answer questions directed to the Mayor.

**10.4** A Councillor may only ask a question under Rule 10.2 above if either:

- (a) notice in writing of the question has been given by noon at least 9 clear working days before the meeting not including the day that notice is given and the day of the meeting to the Monitoring Officer; or
- (b) the question relates to an urgent matter; they have the consent of the Councillor to whom the question is to be put; and the content of the question is given to The Monitoring Officer by noon on the day of the meeting; or
- (c) at an Extraordinary Council meeting notice in writing has been given by noon at least 2 clear working days before the meeting to The Monitoring Officer.

**10.5** The Monitoring Officer may reject a question if it:

- (a) is not about a matter for which the local authority has a responsibility or which affects the Borough;
- (b) is defamatory, frivolous or offensive; is substantially the same as a question which has been put at a meeting of Council in the past 6 months;
- (c) requires the disclosure of confidential or exempt information; and/or
- (d) seeks to pursue or further a complaint against the Council, where other channels already exist for the determination of complaints.

**10.6** If a question is rejected, the Councillor who submitted it will be notified in writing before the meeting and given an explanation for the rejection.

**10.7** An answer may take the form of:

- (a) a written answer circulated to the questioner;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given in writing, a direct oral answer.

**10.8** A Councillor asking a question under Rule 10.2 may ask one supplementary question without notice, but the supplementary question must arise directly out of the original question or reply. The Speaker may reject a supplementary question on any of the grounds in Rule 10.5 above or if the question takes the form of a speech.

**10.9** The provisions of 10.2 above also apply to questions about the business of a joint authority of which the Council is a partner or questions about the activities of a company or external organisation to which the Council nominates and in these cases the question is put to the Councillor who has been appointed as the Council's representative.

- 10.10** Questions are limited to 1 per Councillor per meeting, plus 1 supplementary question unless the Councillor has indicated that only a written reply is required and in these circumstances a supplementary question is not permitted. A question that requires an answer in respect of 2 or more points (a multi-question) is not deemed to be 1 question.
- 10.11** Written responses will be published after the meeting. Where a question is put at the meeting, a time limit of 1 minute shall be applied to the question and to the oral response. Supplementary questions and responses will also be time-limited to 1 minute each.
- 10.12** Subject to time available at the Meeting, there will be a maximum time-limit of 30 minutes on Councillors' questions with no extension of time, and questions not dealt with in this time will be dealt with by written responses and which are to be provided within 28 days of the Meeting. Unless the Speaker decides otherwise, the order of Councillors' questions shall alternate between the administration and one of the other Political Groups, with the questions from other Political Groups drawn in turn, starting with the largest Group. The Speaker shall have discretion, within the 30 minutes allocated for Questions, to vary the printed order of questions to allow an 'ungrouped' Councillor to put their question or to ensure that at least one Councillor from each Political Group has the opportunity to put a question.
- 10.13** Councillors will confine their contributions to questions and answers and must not make statements or attempt to debate. The Speaker will decide whether a Councillor is contravening this rule and if so will stop the Councillor concerned and move on to the next question if necessary. The Speaker's ruling is final.

## **11. MOTIONS – ON NOTICE**

- 11.1** Except for motions which can be moved without notice under Rules 12 and 14, written notice of every motion, signed by the Member of Council proposing the motion and a seconder, must be delivered to the Monitoring Officer no later than noon seven clear working days before the meeting not including the day of delivery of the notice and the day of the meeting. The notice shall specify the Council meeting for which it is submitted. For any meeting, no Member of Council may propose more than one motion by way of written notice. A Member may second as many motions as they so wish.
- 11.2** A Member of Council who wishes to move the suspension of this Rule to enable a motion to be debated where prior notice has not been given as above must state the reason for urgency before the proposal to suspend this Rule is put to the meeting. If the Speaker does not accept the reason for urgency then the Motion will not be accepted.
- 11.3** Ungrouped Councillors may submit a motion under paragraph 11.1 without a named seconder.
- 11.4** Motions will be included on the agenda in order with the Administration Motion for debate first, followed by the Opposition Motion for debate. Any remaining motions shall be placed on the agenda to alternate between the administration and the other Political Groups, with the Opposition Group motions starting with the largest Political

Group not to have that meeting's Opposition Motion Debate slot. It is for the Mayor/Administration Leader to select the Administration Motion for Debate. It is for the Leader of the relevant Opposition Group to select the Opposition Motion for debate.

- 11.5** A motion must be about a matter for which the Council has a responsibility or which affect the area. The Monitoring Officer may reject a motion if it:
- (a) is not about a matter for which the local authority has a responsibility either directly or with its partners;
  - (b) does not contain a clear action or resolution which is within the power of the Authority to pursue.
  - (c) is defamatory, frivolous or offensive or otherwise unsuitable;
  - (d) is substantially the same as a motion which has been put at a meeting of the Council in the past 6 months and does not meet the requirements of Rule 13.2;
  - (e) requires the disclosure of confidential or exempt information or a case which is currently under judicial scrutiny; and/or
  - (f) seeks to pursue or further a complaint against the Council, where other channels already exist for the determination of complaints.
  - (g) is not clear or to the point or includes repetition or does not have a clear recommendation.
- 11.6** If a motion is rejected the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection. The Speaker of the Council may also, on the advice of the Chief Executive, refuse any motion which contravenes these requirements.
- 11.7** At each ordinary meeting of Council there will be specific time set aside for one Administration and one Opposition Motion debate. The following rules will apply:
- (a) The debates will be on the first administration and opposition motions set out in the Motions report included in the agenda.
  - (b) Motions tabled without notice may not take the place of either of these motions.
  - (c) Notice in writing of any amendment must be given to the Monitoring Officer by noon the day before the meeting.
  - (d) The opposition motion debate will alternate in sequence between the opposition groups starting at the first ordinary meeting following the local elections with the largest opposition group and then going in sequence until the next local elections. Should there be changes to the number of political groups this sequence will be adjusted as necessary.
  - (e) Both the administration and opposition motion debates will be for a maximum of 30 minutes each.
  - (f) Standard procedures for a motion debate will apply to the debate itself (including on length of speeches and tabling amendments).

- (g) If the guillotine falls during or before the debate the motions and any amendments already tabled will be voted on along with any other amendments received by noon on the day before the meeting.

## **12. MOTIONS AND AMENDMENTS – WITHOUT NOTICE**

**12.1** Subject to Rule 11.2 the following motions and amendments may be moved without notice provided they do not contravene the requirements of Rule 11.5 above. Once such a motion or amendment has been moved, seconded and has been accepted by the Speaker it shall unless the Speaker decides otherwise be put and voted on without debate:-

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the Minutes;
- (c) to change the order of business in the Agenda in circumstances where the Speaker is satisfied that there are exceptional circumstances to permit such change. In addition, the Councillor seeking to change the order must address such exceptional circumstances;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Councillor arising from an item on the summons for the meeting;
- (f) to receive reports and recommendations of Committees or officers and to make any decisions necessarily arising;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to extend the meeting under Rule 9;
- (n) to suspend a Procedure Rule to which Rule 23 applies;
- (o) to exclude the public in accordance with the Access to Information Procedure Rules;
- (p) not to hear a Councillor further because of misconduct (as set out in rule 22.2);
- (q) to require a Councillor to leave the meeting for continued improper behaviour (as set out in rule 22.3); and
- (r) to give the consent of Council where its consent is required by this Constitution.

## **13. RULES OF DEBATE**

**13.1** Except for Motions submitted through Rule 11.3, no speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

- 13.2** Unless notice of the motion has already been given in writing, the Speaker shall require any motion or amendment to a motion to be presented with enough copies for circulation to all Councillors. The Speaker can request the motion be handed to her/him so that it can be read out to Members of Council before it is discussed.
- 13.3** When seconding a motion or amendment, a Member of Council may reserve their speech until later in the debate.
- 13.4** No speech may exceed 3 minutes without the consent of the Speaker except for the proposer of any motion who shall be allowed up to 4 minutes.
- 13.5** Subject to these procedure rules, the order of speakers shall be determined by the Speaker. The Member of Council who wishes to speak shall indicate and shall wait until called by the Speaker. In determining the order of speakers the Speaker may take into consideration whether previous speakers have supported or opposed the motion under debate; the particular concerns of any ward councillors; and/or any notification by a political group of Members of Council of their group who wish to speak on the matter.
- 13.6** An amendment to a motion must be relevant to the motion and may:-
- (a) refer the motion to an appropriate body or individual for consideration or re-consideration;
  - (b) leave out words;
  - (c) leave out words and insert or add others; and/or
  - (d) insert or add words;
- as long as the effect is not to completely re-write or negate the motion.
- 13.7** If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 13.8** After an amendment has been carried, the Speaker may choose to read out the amended motion before putting it to the vote.
- 13.9** A Member of Council may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion. This amendment can be at the suggestion of another Member of Council at the meeting and is often referred to as a 'friendly amendment'.
- 13.10** A Member of Council may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 13.11** Only alterations which could be made as an amendment may be made under this rule.
- 13.12** A Member of Council may withdraw a motion or amendment before or after they have moved it with the consent of both the meeting and the seconder. Consent will

be signified without discussion. No Member of Council may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

- 13.13** The mover of a motion has a right to reply at the close of the debate on the motion, immediately before it is put to the vote.
- 13.14** If an amendment is moved, the mover of the original motion also has a right of reply at the close of debate on the amendment, but may not otherwise speak on the amendment.
- 13.15** Where there is a debate on a report at Council. The Member who introduces the report shall have a right of reply in the same manner as if a motion was being debated.

## **14 PROCEDURAL MOTIONS**

- 14.1** When a motion is under debate, no other motion may be moved except the following:
- (a)** to withdraw the motion
  - (b)** to amend the motion;
  - (c)** to proceed to the next business;
  - (d)** that the question be now put;
  - (e)** to adjourn a debate;
  - (f)** to adjourn a meeting;
  - (g)** that the meeting continue for a further 30 minutes;
  - (h)** to exclude the press and public; and
  - (i)** that a Member of Council be not further heard or to exclude the Member of Council from the meeting.
- 14.2** At the end of a speech by another Member of Council, a Member of Council may move without comment the following motions:
1. to proceed to next business;
  2. that the question be now put;
  3. to adjourn a debate; or
  4. to adjourn a meeting.
- 14.3** If a motion to proceed to next business is seconded and the Speaker thinks the item under discussion has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 14.4** If a motion that the question be now put is seconded and the Speaker thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed, they will give the mover of the original motion a right of reply before putting her/his motion to the vote.

- 14.5** If the Speaker considers that the item has not been sufficiently discussed and cannot reasonably be discussed on that occasion, they will adjourn the debate or adjourn the meeting without giving the mover of the original motion the right of reply.
- 14.6** A Member of Council may raise a point of order at any time and the Speaker will hear them immediately. A point of order may only relate to the alleged breach of these Council Procedure Rules or the law. The Member of Council must indicate the rule or law which must be specified at the outset and the way in which the Member of Council considers it has been broken. The ruling of the Speaker on the matter is final.
- 14.7** A Member of Council may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member of Council which may appear to have been misunderstood in the present debate. The ruling of the Speaker on the admissibility of a personal explanation is final.

## **15. PREVIOUS DECISIONS AND MOTIONS**

- 15.1** A motion to rescind a decision arising from a motion moved and adopted at a Council meeting within the past 6 months cannot be moved unless the notice of motion is signed by at least twenty Members of Council.
- 15.2** A motion or amendment in similar terms to one which has been rejected at a Council meeting within the past six months cannot be moved unless notice of motion or amendment is given signed by at least twenty Members of Council.
- 15.3** Once a motion or amendment to which this Rule applies has been dealt with, no Member of Council can propose a similar motion or amendment within the next four months.

## **16. VOTING**

- 16.1** The Mayor and all Councillors are entitled to vote unless exempted.
- 16.2** Unless this Constitution (or the law) provides otherwise, any matter will be decided by simple majority of the Mayor and Councillors present.
- 16.3** If there are equal numbers of votes for and against, the Speaker will have a second or casting vote. There will be no restriction on how the Speaker chooses to exercise a casting vote.
- 16.4** Unless a recorded vote is demanded the Speaker will take the vote by a show of hands, or any other of voting method that has been introduced. If there is no dissent this can be by simple affirmation of the meeting. A recorded vote must be requested before a vote is taken.
- 16.5** If 20 Members of Council present at the meeting request it the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.



**16.6** In relation to any debate at a Budget Council Meeting on the authority's budget and level of the Council Tax to be levied for each financial year, a recorded vote shall take place on any amendment that is put to the vote during that debate and on the substantive motion. Such votes to be undertaken in accordance with Procedure Rule 16.4.

**16.7** Where any Members of Council requests it immediately after a vote, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

**16.8** If more nominations are made than there are positions available, the meeting will vote in turn on each nomination separately, in the order in which they were nominated, until the vacant position(s) are filled. Before any vote is taken the Speaker of the Council or person presiding shall establish that each candidate nominated, if present, is willing to stand.

## **17. PETITIONS**

**17.1** The Council has adopted a Petition Scheme and which is attached at Appendix 1. All Petitions are considered in accordance with that Scheme.

## **18. STANDARDS ADVISORY COMMITTEE REPORTS**

**18.1** The Chair of the Standards Advisory Committee and the Independent Person shall both be entitled to address Council on any report referred to them by the Standards Advisory Committee.

## **19. EXCLUSION OF THE PUBLIC**

**19.1** Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part B Section 27 of this Constitution or Rule 24 (disturbance by the public).

## **20. COUNCILLORS' CONDUCT**

**20.1** When the Speaker of the Council stands during a debate any Councillor(s) then standing must sit down and the Council must be silent.

**20.2** If a Councillor persistently disregards the ruling of the Speaker, or behaves inappropriately, offensively, or is deliberately obstructing business, the Councillor will be provided with a warning by the Speaker. If the Councillor continues to behave in any such manner, the Speaker, in consultation with the Chief Executive and the Monitoring Officer, has the authority to order the Councillor in question to leave the meeting.

## **21. DISTURBANCE BY PUBLIC**

**21.1** If a member of the Public interrupts proceedings or is otherwise causing an annoyance, the Speaker of the Council will warn the person concerned and, if the

interruption continues, will order the person's leave the Council Chamber. This includes behaviour during filming or otherwise recording the Meeting.

- 21.2** If there is a general disturbance in any part of the Council Chamber open to the public the Speaker of the Council shall order that part to be cleared.

## **22. FILMING AND RECORDING**

- 22.1** Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not disturb the business of the meeting. If a person wishes to film a particular meeting, please liaise with the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Speaker or Chair is aware and those attending the meeting can be made aware of any filming taking place.
- 22.2** Filming is to be limited to the formal meeting area and must not extend to those in the public seating area.
- 22.3** The filming etc. must be done in such a way that does not cause a breach of health and safety or cause an annoyance. There may also be occasions where those filming may be asked not to film particular individuals where it is considered that there is good reason not to do so and which could allow the meeting to remain open to the press and public. The Speaker/Chair will make the final decision on all matters of dispute in regard to the use of social media audio-recording, photography and filming in the meeting.
- 22.4** The Council has published a Filming Protocol in Part D Section 55 of this Constitution.

## **23 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

- 23.1** Except where these rules provide otherwise, any of the Council Procedure Rules to which this Rule applies may be suspended for all or part of the business of a meeting at which suspension is moved by a motion.
- 23.2** Such a motion cannot be moved without notice unless at least ½ of the voting Councillors of the meeting are present.
- 23.3** This Rule applies to the Rules 10 to 13 and 17.

## **24 SPECIFIC EXEMPTIONS APPLYING TO OTHER MEETINGS/COMMITTEES AND SUB-COMMITTEES**

### **24.1 General**

- (a) The person presiding at a meeting of any Committee or Sub-Committee may exercise any power or duty of the Speaker of the Council in relation to the proceedings of that meeting. Where these rules apply to meetings of Committees and Sub-Committees, references to the Speaker of the Council also include the Chairs of Committees and Sub-Committees

- (b) Chairs of 'Committees of Council' will be elected the Council's Annual Meeting. Should a post of Chair of Committee be vacant at any other time during the year it would be for Council to consider that election at its next available meeting. Should Council fail to do that then the Committee may appoint a Chair from amongst its own Members. Different rules apply to Sub-Committees, Boards and other meetings.
- (c) Rules 5 to 9, 13.1 to 13.3, 13.5, 13.6 and 16 to 23 apply to meetings of all Committees and Sub-Committees, except as specifically referred to below.
- (d) As well as allocating seats on Committees and Sub-Committees/Panels, the Council will allocate seats in the same manner for substitute Councillors.
- (e) For each Committee or Sub-Committee/Panel, the Council will appoint up to 3 substitute Councillors, nominated by each relevant Political Group.
- (f) Substitute Councillors will have all the powers and duties of any ordinary Councillor of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- (g) Substitute Councillors may attend meetings in that capacity only:
  - (i) to take the place of the ordinary Councillor for whom they are the designated substitute; and
  - (ii) after notifying the Monitoring Officer (or her/his representative at the meeting) by the time scheduled for the start of the meeting of the intended substitution
- (h) A substitute Councillor may, where necessary, take the place of the ordinary Councillor for part of a meeting or for only (a) specific agenda item(s), subject to prior notification as above and subject to any handover between the Councillors taking place at the beginning of a new agenda item.

#### **24.2 Appeals Committee/Sub-Committee, Development and Strategic Development Committees, and Licensing Committee/Sub-Committee**

- (a) After sitting for 3 hours, an extension may be agreed for up to a period of up to 1 hour so as to conclude the item/application under consideration, provided that the meeting does not extend beyond 11.30pm in any event.
- (b) Where any items on the agenda that have not been dealt with by the end of the meeting shall be dealt with either at a special meeting of the Committee/Sub-Committee convened to deal with those items or at the next normal meeting of the relevant Committee/Sub-Committee.

#### **24.3 Licensing Committee**

- (a) There are no substitutes permitted for the Licensing Committee.
- (b) In the case of a Licensing Committee/Sub-Committee being inquorate after 15 minutes the legal adviser to that such has the authority to agree an extension of up to an additional 30 minutes to proceed.

## Appendix to the Council Procedure Rules

### LONDON BOROUGH OF TOWER HAMLETS

#### PETITION SCHEME

##### 1. SUBMITTING A PETITION TO THE COUNCIL

Tower Hamlets Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

**Paper petitions** are those prepared in the traditional way: a petition organiser creates a paper document that includes a proposed action. Residents physically write their name, address and signature on this document to show their support of the proposed action.

To help you organise paper petition, the Council has prepared a template that is attached as Appendix 3.

Paper petitions can be sent to the Democratic Services Team on the details provided at Section 7 of this Scheme.

**e-Petitions** are created, signed, and submitted entirely online. The petition organiser uses a website to create their petition and residents can electronically add their name via the website to show their support of the action the petition organiser proposes.

It is recommended that e-petitions are created via the Council's e-petition facility [www.towerhamlets.gov.uk/petition](http://www.towerhamlets.gov.uk/petition). e-petitions created or submitted through third party websites may be accepted if they comply with the provisions of this scheme.

##### 2. GUIDELINES FOR SUBMITTING A PETITION

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. This should state what action the petitioners wish the Council to take.
- The names and signatures of each person supporting the petition, together with the full addresses (including postcode) at which they live, work or study in Tower Hamlets.
  - For Paper Petitions (see definition above) the original signed sheets must be submitted (scans/copies will not be accepted).
- Contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be published.
- If the petition does not identify a petition organiser, we will contact the first listed signatory to the petition to agree who should act as the petition organiser.

### **Scope of Petition**

The Monitoring Officer will review all petitions before they are accepted / actioned. Petitions may be rejected if it:

1. is not about a matter for which the local authority has a responsibility or which affects the borough;
2. is defamatory, frivolous; offensive; vexatious, abusive or otherwise inappropriate;
3. is substantially the same as a petition which has been put at a meeting of the Council in the past 6 months;
4. requires the disclosure of confidential or exempt information; or
5. seeks to pursue or further a complaint against the Council, where other channels already exist for the determination of complaints.
6. Is otherwise unsuitable.

The Monitoring Officer will also consider any request received for the petition to be dealt with in a particular way (e.g. for submission to a particular Committee or to Council). Subject to the guidance within this Petition Scheme, the Monitoring Officer has absolute discretion on how the Council will deal with any petition received and may recommend an alternative course of action to that requested.

In addition, there are some circumstances where petitions will not be dealt with under this Scheme. These include any matters relating to planning or licensing applications; where a separate consultation process is active; or any other circumstances which, in the opinion of the Monitoring Officer would mean the petitions would be better dealt with using a different Council procedure.

The Council may seek to verify the authenticity of each entry on a petition by reference to existing information such as (where appropriate) the current electoral register or other relevant records. Entries which cannot be verified may not be counted for the purposes of determining whether a petition has exceeded a threshold set out in this scheme.

In the period immediately before an election or referendum, when certain legal restrictions apply, we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

## **Signing a Petition**

### **School Children**

The Council welcomes petitions created and signed by school children and university students. It may be appropriate for young people to give the name of their school, college rather than home address when signing a petition.

### **Council Officers**

Petitioners are asked not to ask council officers to sign their petitions in relation to their service area. It is contrary to the Member / Officer Protocol for officers to lobby Councillors in respect of their specific service.

## **3. ACTION BY THE COUNCIL ON RECEIPT OF A PETITION**

An acknowledgement will be sent to the petition organiser within 10 working days of us receiving the petition. This will let them know what we plan to do with the petition and when they can expect to receive a formal response to it. If the petition needs more investigation, we will tell the petition organiser the steps we plan to take.

If we can do what the petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

Petitions will receive a formal response from the relevant Corporate Director within 28 days of receipt. This will usually be the quickest way of addressing the issue.

If however, the petition meets the requirements to be presented/debated at a meeting of Councillors under the provisions of Section 4 of this scheme, the petition will receive a formal response within 28 days from the meeting. If you request this option, the relevant Corporate Director may still write to you. You may choose not to proceed with presentation at a meeting if you feel their response resolves the matter.

The acknowledgment will confirm when and how your response will be sent and tell you when and where the meeting will take place (if applicable and if known at that stage).

To ensure that people know what we are doing in response to the petitions we receive, the details of all petitions submitted to the Council will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

#### **4. PRESENTATION OF A PETITION TO ELECTED COUNCILLORS**

Subject to your petition containing sufficient signatures as set out below, you may request to present the petition to a meeting of Councillors. There are several ways in which this can be done.

##### **(a) Presentation to a meeting of the Council, Cabinet or relevant committee**

If your petition includes the names, addresses and signatures of 30 persons who live, work or study in the borough it can be presented at an ordinary meeting of the Council or to a Council Committee.

The procedure for presenting a petition at full Council or Committee meetings is included in Appendix 1 of this scheme.

Separate to the above provision, the Mayor has agreed a scheme for public engagement at executive meetings (the Cabinet and Cabinet sub-committees), which provides a number of different ways that members of the public can make submissions relating to items on the agenda. The Cabinet public engagement scheme is set out at Appendix 2 of this Scheme.

##### **(b) Debate at a Council Meeting**

If your petition includes the names, addresses and signatures of 2,000 persons who live, work or study in the borough, you may request that a debate be held about the petition at a full Council meeting.

The procedure for debating a petition at full Council meetings is included in Appendix 1 of this scheme.

##### **(c) Officer evidence to the Overview and Scrutiny Committee**

If your petition includes the names, addresses and signatures of at least 1,000 persons who live, work or study in the borough, you may request that a relevant senior officer give evidence at a public meeting of the Council's Overview and Scrutiny Committee. For example, you may request that a senior officer explain progress on an issue, or the advice given to councillors to enable them to make a particular decision. The senior officers who may be called to give evidence under this procedure include the Head of the Paid Service (Chief Executive) and any of the Council's statutory or non-statutory Chief Officers (Corporate Directors).

You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the

petition – for instance if the named officer has changed jobs. The Committee will also call the relevant Executive Councillor(s) to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chair of the Committee by contacting the Democratic Services team (see Section 7) up to three working days before the meeting.

### **General guidance on requesting your petition be presented or debated**

If you would like your petition to be presented/debated at a meeting, you must submit (1) the petition; (2) a request to present or debate the petition; and (3) any request for additional assistance such as an interpreter, to the Democratic Services Team (see Section 7) by noon, 9 clear working days (not including the day notice is given or the day of the meeting) before the relevant meeting. However, please note that there is likely to be a maximum number of petitions presented at any one meeting and these slots are normally allocated in order of receipt, so early submission is advised.

When determining whether a petition has met or exceeded a threshold set out in this scheme, the Council will only count signatories for which a local connection (i.e. that the signatory either lives, works or studies in Tower Hamlets) can be evidenced from the information supplied. There is a risk that petitions created and/or submitted via third party e-petition websites may not satisfy this criterion so it is strongly recommended that e-petitions are created via the Council's own e-petition facility  
[www.towerhamlets.gov.uk/petition](http://www.towerhamlets.gov.uk/petition)

**Similar petitions:** In the event that 2 or more petitions which are substantially the same are received from different petition organisers, the Corporate Director, Governance may aggregate the number of valid signatures in each petition for the purpose of determining whether the threshold to trigger a Council debate of the matters raised has been reached if that is the wish of the petition organisers.

## **5. PETITIONS ON NON-COUNCIL FUNCTIONS**

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) it is unlikely you will be able to present it to a Council meeting, but we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible may liaise with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.

If your petition is about something that a different authority is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other authority, but could involve other steps. In any event we will notify you of the action we have taken.

You can find more information on the services for which the Council is responsible on our website. [www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk)



In all cases we will provide the written response as set out in Section 3.

## **6. IF YOU ARE NOT SATISFIED WITH THE COUNCIL'S RESPONSE**

If you feel that we have not dealt with your petition properly you may make a complaint under the Council's complaints procedure.

[https://www.towerhamlets.gov.uk/lgnl/council\\_and\\_democracy/complaints/complaints.aspx](https://www.towerhamlets.gov.uk/lgnl/council_and_democracy/complaints/complaints.aspx)

## **7. FURTHER INFORMATION**

Should you wish to submit a petition or require any further information, please contact:

Petitions,  
Democratic Services,  
1st Floor,  
Town Hall,  
Mulberry Place,  
E14 2BG

020 7364 4651

Email: [committee.services@towerhamlets.gov.uk](mailto:committee.services@towerhamlets.gov.uk)

Website: <http://www.towerhamlets.gov.uk/committee>

e-petitions website: <http://www.towerhamlets.gov.uk/petition>



QR code for website:

## Petition Scheme Appendix 1

### PROCEDURE FOR HEARING PETITIONS AT MEETINGS OF THE FULL COUNCIL

**Agenda order:** All petitions received within the deadline (see Section 4 of the Petition Scheme) will be listed on the Council agenda.

The agenda will list 4 petitions as 'to be heard', which will be listed in order of receipt, except that petitions for debate will take precedence. Any petitions listed as 'to be heard' for which the person(s) listed to present are absent, will be noted (see below).

All remaining petitions will be listed as 'to be noted'. These petitions will not be heard and the Speaker will state where they will go for a full response.

#### Petition presentation procedure (for petitions of between 30 and 1,999 signatures)

1. Up to 3 seats in the public gallery will be reserved for the person(s) presenting each petition. The person(s) presenting the petition must live, work or study within the borough. Unless prior agreement from the Speaker of the Council has been obtained, the person(s) presenting the petition cannot include an elected Member of the Council.
2. The person(s) presenting each petition will be invited to speak for up to 3 minutes in total in support of the petition. Additional time will be allowed if an interpreter is used. In this case the interpreter must not use the additional time to introduce new information.
3. Councillors may then ask the petitioners questions for a further 4 minutes;
4. The speaker will invite the Mayor or (at the Mayor's discretion) the relevant Lead Member or Committee Chair to respond to the matters raised for up to 2 minutes.
5. The petition will be referred to the relevant Corporate Director who will respond in writing within 28 days from the date of the meeting.

#### Petition debate procedure (for petitions in excess of 2,000 signatures):

1. Up to 3 seats in the public gallery will be reserved for the person(s) presenting each petition. The person(s) presenting the petition must live, work or study within the borough.
2. The person(s) presenting each petition will be invited to speak for up to 3 minutes in total in support of the petition. Additional time will be allowed if an interpreter is used. In this case the interpreter must not use the additional time to introduce new information.
3. Councillors may then ask the petitioners questions for a further 4 minutes.

4. The petition will then be debated by Councillors for a maximum of 15 minutes. All speeches are limited to a maximum of 3 minutes. During his or her speech, any Councillor may move a motion for the Council's consideration relevant to matters in the petition (this does not require the suspension of the Council Procedure Rules).
5. Following the debate, the speaker will invite the Mayor or (at the Mayor's discretion) the relevant Lead Member or Committee Chair to respond to the matters raised, for up to 3 minutes.
6. Following the petition debate, any motions moved will be put to the vote in the order they were tabled.
7. If no motion is agreed, the petition will stand referred to the relevant Corporate Director for a written response within 28 days of the meeting.

### **General guidance on petition hearings at Council meetings**

**Executive functions:** In relation to executive functions, the Council does not have powers to override any executive decision of the Mayor or substitute its own decision. The Council may however pass a motion expressing a view on the matter or referring the matter to the Mayor, calling on him/her to take some action, or consider or reconsider a decision, with recommendations to inform that consideration. Officers will advise on the constitutional validity of any motion that may be moved.

**Limitation.** An individual or group may not submit a petition to a meeting of the Council if that individual or group has previously submitted a petition to either of the previous 2 Council meetings.

### **Presentation of Petitions at Non-Executive Committee Meetings (including Overview and Scrutiny Committees)**

Petitions can also be presented to any Non-Executive Committee meeting providing it is on a subject matter that is within that Committee's Terms of Reference.

Some Committees will have specific procedures for dealing with petitions and those must be followed where they exist. In any other case the petition will be dealt with at the next appropriate Committee meeting. If no other procedures are in place or agreed then the petition will be heard in the same manner as at Council (3 minute presentation, 4 minutes of questions from Members, 2 minutes for a response). The response may come from a Member or officer as appropriate. If the petition relates to an item on the agenda, it will be considered during the discussion of that particular agenda item.

### **Petitions presented by young people**

The Council welcomes petitions presented by young people including school children. Whilst the standard meeting procedures will be followed where possible, the Chair of the meeting shall have the discretion to vary the procedures to ensure the young people are properly able to represent themselves at the meeting.

## **Petition Scheme Appendix 2**

### **PROCEDURE FOR HEARING PETITIONS AT MEETINGS OF THE CABINET**

The procedure for hearing petitions at meetings of the Cabinet is contained in the Executive Procedure Rules at Section 30 of the Council's Constitution. The relevant provision is replicated below:

#### **Public Engagement at Cabinet**

Whilst the main focus of Cabinet is as a decision-making body, there is an opportunity for the public to contribute through making submissions that specifically relate to the reports that are set out on the agenda. Members of the public may therefore make written submissions in any form (for example; Petitions, letters, written questions) and which are to be submitted to the Clerk to Cabinet (whose details are on the Cabinet agenda front sheet) by 5 pm the day before the meeting. The consideration of such written submissions will be at the discretion of whosoever presides at the meeting.

## Petition Scheme Appendix 3

### PETITION TEMPLATE

To Democratic Services,  
Tower Hamlets Council  
1st Floor, Town Hall  
Mulberry Place  
London E14 2BG  
[committee.services@towerhamlets.gov.uk](mailto:committee.services@towerhamlets.gov.uk)  
020 7364 4207

### Petition to Tower Hamlets Council

Dear Democratic Services, please find attached a petition relating to...

...for your attention. The petition statement, which explains what action we would like the Council to take, and the names, addresses and signature of each person supporting the petition, can be found on the attached pages.

#### Details of petition organiser

Name:	Address:
Email:	Telephone No:

Tick this box if you are also running a linked petition on the Council's website at [www.towerhamlets.gov.uk/petition](http://www.towerhamlets.gov.uk/petition)

I believe this petition contains .....signatures;

<b>Preferred response:</b> I would like (tick 1 ONLY):	
For this petition to be referred to a senior Council officer who will arrange for a response to be sent within 28 days of receipt by the Council;	
To present this petition in person at a future meeting of the Council or a committee <i>[if the petition includes at least 30 valid signatures]</i>	
For this petition to be debated by Councillors at a future meeting of the Council <i>[if the petition includes at least 2,000 valid signatures]</i>	

(note to petition organiser – please complete this cover page in full and print 1 copy. Please complete and then print as many copies of the following signature sheet as you feel necessary. All signature sheets must also include the petition statement. Combine all pages and return to the address above.)

We the undersigned petition the Council to...[Insert your own text]

Please complete each row in full in BLOCK CAPITALS (individuals signing this petition must be persons living, working or studying in the London Borough of Tower Hamlets).		
FULL NAME	ADDRESS INC. POSTCODE	SIGNATURE

## 27 Access to Information Procedure Rules

### CONTENTS

<b>Rule</b>	<b>Subject</b>
1	Scope
2	Additional Rights to Information
3	Rights to Attend Meetings
4	Notice of Meeting
5	Access to Agenda and Reports Before the Meeting
6	Items of Business
7	Supply of Copies
8	Access to Minutes etc. after the Meeting
9	Background Papers
10	Summary of Public's Rights
11	Exclusion of Access by the Public to Meetings
12	Exclusion of Access by the Public to Reports
13	Application of Rules to Executive
14	Procedure Before Taking Key Decisions
15	Notice of Key Decisions
16	Content of Key Decision Notices
17	Key Decision Notices – Exempt and Confidential Information
18	Urgency - General Exception
19	Urgency - Special Urgency
20	Rights of Overview and Scrutiny

<b>21</b>	Meetings of the Executive and its Committees to be held in public
<b>22</b>	Record of Decisions
<b>23</b>	Executive Decisions made by Officers
<b>24</b>	Overview and Scrutiny Committee Access to Documents - After a Decision has been made
<b>25</b>	Additional Rights of Access for all Members

## **1. SCOPE**

- 1.1** These rules apply to all meetings of Council, Overview and Scrutiny Committee, Scrutiny Sub-Committees and Panels, the Standards Advisory Committee, regulatory and other Committees, Sub-Committees and public meetings of the Executive (together called “meetings”).

## **2. ADDITIONAL RIGHTS TO INFORMATION**

- 2.1** These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **3. RIGHTS TO ATTEND MEETINGS**

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

## **4. NOTICE OF MEETING**

- 4.1** The Council will give at least five clear working days’ notice not including the day that notice is given or the day of any meeting by posting details of the meeting at Tower Hamlets Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG (the designated office).
- 4.2** If the meeting is convened at shorter notice than five clear working days, notice is to be given by the Council in the same manner set out above at the time the meeting is convened.



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

- 5.1** The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except;
- 5.2** Where the meeting is convened at shorter notice, copies of the agenda and report shall be open to inspection from the time the meeting is convened, and
- 5.3** Where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (and of the revised agenda) and copies of any report for the meeting relating to that item, shall be open to inspection from the time the item is added to the agenda.

## **6. ITEMS OF BUSINESS**

- 6.1** An item of business may not be considered at a meeting unless either:
  - (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
  - (b) by reason of special circumstances, which shall be specified in the minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 6.2** “Five clear working days” excludes the day of the meeting, the day on which the meeting is called, weekends and bank holidays.
- 6.3** “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a meeting allowing the proper time for inspection as well as why the item or report could not have been available for inspection for five clear days before the meeting.
- 6.4** Where the item of business relates to a key decision Rules 14-19 also apply.

## **7. SUPPLY OF COPIES**

- 7.1** The Council will supply copies of:
  - (a) any agenda and reports which are open to public inspection;
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
  - (c) if the Corporate Director, Governance thinks fit, any other documents supplied to Councillors in connection with an item,

to any person who makes a request to view copies of these documents on payment of a charge for postage and any other costs.

## **8. ACCESS TO MINUTES ETC. AFTER THE MEETING**

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

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

## **9. BACKGROUND PAPERS**

**9.1 List of Background Papers.** The Corporate Director, Governance will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in her/his opinion:

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

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11) or in respect of reports to the Executive, the advice of a political adviser or assistant.

**9.2 Publication and Public Inspection of Background Papers.** The Council will publish background papers on the Council's website and will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **10. SUMMARY OF PUBLIC'S RIGHTS**

**10.1** A written summary of the public's rights to attend meetings and to inspect and copy documents shall be kept at and available to the public at the designated office.

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

- 11.1 Confidential Information – Requirement to Exclude Public.** The public *must* be excluded from meetings or those part or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (as defined in Rule 11.4 below) would be disclosed in breach of the obligation of confidence.
- 11.2 Exempt Information – Discretion to Exclude Public.** The public *may* be excluded from meetings or those part or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (as defined in Rule 11.5 below) would be disclosed and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 11.3** Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.
- 11.4 Meaning of Confidential Information.** *Confidential information* means information given to the Council by a Government Department on terms which forbid its public disclosure or information which the disclosure of which to the public is prohibited by or under any enactment or by the order of a court. This includes information excluded under the Freedom of Information Act 2000 or the Data Protection Act 2018.
- 11.5 Meaning of Exempt Information.** *Exempt information* is those for the time being specified in Part I of Schedule 12A to the Local Government Act 1972, namely:
1. Information relating to any individual
  2. Information which is likely to reveal the identity of an individual
  3. Information relating to the financial or business affairs of any particular person (including the authority handling the information) [**Information is not exempt under this category if it is required to be registered under the Companies Acts 1985 and 2006, the Friendly Societies Act 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Co-operative and Community Benefit Societies Act 2014 or the Charities Acts 1993 and 2011.**]
  4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
  5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
  6. Information which reveals that the authority proposes:-
    - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

- b) to make an order or direction under any enactment.
- 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 11.6 Information falling within any of the categories 1-7 of Rule 11.5 above are not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- 11.7 **Excluding the public to prevent disorder.** Under Reg 4(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, members of the public can be excluded from a meeting in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

## **12. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

- 12.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/ her opinion relate to items during which, in accordance with Rule 11, the meeting or those part or parts of the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed (see Rule 11.5 above for the categories).

## **13. APPLICATION OF RULES TO EXECUTIVE**

- 13.1 Rules 14-25 apply to the Executive and its Committees (and which term includes Sub-Committees and other decision making meetings). If the Executive or one of its Committees meets to take a key decision or meets in public then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. A key decision is defined in Part A Section 3 of this Constitution.
- 13.2 If the Executive or one of its Committees meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within twenty-eight days of the date by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 18 (urgency - general exception) or Rule 19 (urgency - special urgency) apply. This requirement does not include meetings whose sole purpose is for officers to brief Members.

## **14. PROCEDURE BEFORE TAKING KEY DECISIONS**

- 14.1 Subject to Rule 18 (urgency - general exception) and Rule 19 (urgency - special urgency), a key decision shall not be taken unless:
  - (a) a notice has been published in connection with the matter in question at both the offices of the Council and on the Council’s website;

- (b) at least twenty-eight days have elapsed since the notice has been published; and
- (c) where the decision is to be taken at a meeting of the Executive or a Committee of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meeting).

## **15. NOTICE OF KEY DECISIONS**

- 15.1** A notice shall be published under Rule 14 in respect of any matter which the Mayor has reason to believe will be the subject of a key decision to be taken by the Mayor, the Executive, a Committee of the Executive, an individual member of the Executive, an officer or under joint arrangements in the course of the discharge of an executive function.
- 15.2** In addition, a notice shall be published under Rule 14 in respect of those items of business which the Executive intends to consider and which form part of the policy framework and where the Executive will be making recommendations to Council.

## **16. CONTENT OF KEY DECISION NOTICES**

- 16.1** Each notice published under Rule 14 shall contain the below details as far as reasonably practicable:
  - (a) that a key decision is to be made on behalf of the Council;
  - (b) the matter in respect of which the decision is to be made;
  - (c) where the decision maker is an individual, her/his name and title, if any; and, where the decision maker is a decision making body, its name and a list of its members;
  - (d) the date on which or the period within which the decision is to be made;
  - (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the decision is to be made;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.
- 16.2** Where, in relation to any matter-
  - (a) the public may be excluded under Rule 21.2 below from the meeting at which the matter is to be discussed; or
  - (b) documents relating to the decision need not, because of Rule 17, be disclosed to the public,

then the document referred to in 16.1 must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

## **17. KEY DECISION NOTICES – EXEMPT AND CONFIDENTIAL INFORMATION**

**17.1** Nothing in these Rules (or the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the 2012 Regulations”)) is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

**17.2** Nothing in these Rules or the 2012 Regulations-

(a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

(b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

## **18. URGENCY - GENERAL EXCEPTION**

**18.1** If a matter which is likely to be a key decision is to be considered and the matter has not been published in advance in accordance with Rule 14 then, subject to Rule 19 (urgency - special urgency), the decision may still be taken if:

(a) the decision must be taken by such a date that it is impracticable to defer the decision until public notice of at least twenty-eight days has been given;

(b) the Corporate Director, Governance has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing of the matter about which the decision is to be made;

(c) the Corporate Director, Governance has made copies of that notice available to the public at the offices of the Council for inspection; and

(d) at least five clear days have elapsed following the day on which the Corporate Director, Governance complied with 18.1(b) and 18.1(c).

Where such a decision is taken collectively, it must be taken in public unless it involves consideration of confidential or exempt information.

## **19. URGENCY - SPECIAL URGENCY**

**19.1** If by virtue of the date on which a decision must be taken Rule 18 (urgency - general exception) cannot be followed, then a decision can only be taken if the decision taker (or the Chair of the body making the decision) has obtained from:

- (a) the Chair of the Overview and Scrutiny Committee ; or
- (b) if there is no such person, or if the Chair is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny Committee or Speaker, the Deputy Speaker;

and the agreement that the taking of the decision cannot reasonably be deferred.

**19.2** The Mayor will submit an annual report to Council on the executive decisions taken under this Rule in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which each decision was made.

## **20. RIGHTS OF OVERVIEW AND SCRUTINY**

### **20.1 When the Overview and Scrutiny Committee can Require a Report**

If the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) published in advance in accordance with Rule 14, or
- (b) the subject of the urgency - general exception procedure (see Rule 18), or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Speaker under Rule 19;

the Committee may require the Executive to submit a report to Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the Committee when so requested in writing by:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) three (3) Members of the Overview and Scrutiny Committee.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

## **20.2 The Executive's Report to Council**

- (a) The Executive will prepare a report setting out the date of the decision, particulars of the decision, the individual or body making the decision, and if the Mayor is of the opinion that it was not a key decision, the reasons for that opinion. There should also be details of any alternative decisions that were considered and why they were rejected, and the names of any member who has declared a conflict of interest in relation to the decision (if any).
- (b) The report will be submitted to the next ordinary meeting of Council. However, if the next meeting of Council is within ten days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the Council meeting after that.

## **21. MEETINGS OF THE EXECUTIVE AND ITS COMMITTEES TO BE HELD IN PUBLIC**

**21.1** Any meeting of the Executive or a Committee of the Executive shall be open to the public except to the extent that the public are excluded under Rule 21.2

**21.2** The public must be excluded from a meeting during an item of business whenever—

- (a) it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence;
- (b) the decision-making body concerned passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item, exempt information would be disclosed to them; or
- (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

**21.3** A resolution under Rule 21.2 (b) must—

- (a) identify the proceedings, or the part of the proceedings to which it applies; and
- (b) state, by reference to the descriptions in Rule 11.5 the description of exempt information giving rise to the exclusion of the public.



- 21.4** The public may only be excluded under sub-paragraph (a) or (b) of Rule 21.2 for the part or parts of the meeting during which it is likely that confidential information or exempt information would be disclosed.
- 21.5** Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the Executive and its Committees do not have the power to exclude members of the public from a meeting while it is open to the public.
- 21.6** While a meeting of the Executive or one of its Committees is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.
- 21.7** The Council must ensure that members of the public are aware that a meeting is to be broadcast where the council or a person attending the meeting for the purpose of reporting proceedings intends to use facilities to record or broadcast the proceedings.

#### **Procedures prior to private meetings**

- 21.8** Any decision made by the Executive or one of its Committees to hold a meeting in private is a prescribed decision for the purpose of section 9GA(5) of the Local Government Act 2000 (regulations requiring prescribed information about prescribed decisions).
- 21.9** At least twenty-eight clear days before a private meeting of the Executive of one of its committees, the Executive must—
- (a) make available at the offices of the Council a notice of its intention to hold the meeting in private; and
  - (b) publish that notice on the Council's website.
- 21.10** A notice under Rule 21.9 must include a statement of the reasons for the meeting to be held in private.
- 21.11** At least five clear days before a private meeting of the Executive or one of its committees, the Executive must—
- (a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
  - (b) publish that notice on the Council's website.
- 21.12** A notice under Rule 21.11 must include—
- (a) a statement of the reasons for the meeting to be held in private;

- (b) details of any representations received by the Executive about why the meeting should be open to the public; and
- (c) a statement of its response to any such representations.

**21.13** Where the date by which a meeting must be held makes compliance with Rules 21.9 to 21.12 impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from—

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Speaker; or
- (c) where there is no Chair of the Overview and Scrutiny committee or Speaker, the Deputy Speaker,

that the meeting is urgent and cannot reasonably be deferred.

**21.14** As soon as reasonably practicable after the decision-making body has obtained agreement under Rule 21.13 to hold a private meeting, it must—

- (a) make available at the offices of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- (b) publish that notice on the Council's website.

**21.14** The Executive or one of its Committees may meet in private if it meets with officers for the purposes only of briefing.

**21.15** The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place. A meeting of the Executive may not meet to take any decisions unless the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer or their nominee are present or have waived their entitlement to attend. The meeting may only take a decision if there is an officer present with responsibility for recording and publishing the decision.

## **22. RECORD OF DECISIONS**

**22.1 Executive Decisions made at Meetings.** As soon as is reasonably practicable after a meeting of a decision-making body at which an executive decision has been made, whether held in public or private, the Corporate Director, Governance or nominated officer shall ensure that a written statement is produced in respect of every executive decision made at that meeting including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the meeting by the decision making body at which the decision was made;
- (d) a record of any conflict of interest relating to the matter which is declared by any Member of the decisions making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

Decisions taken at a meeting may only be taken on the basis of a written report, setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance or their nominee is present.

## **22.2 Executive Decisions made by Individual Members of the Executive**

- 22.3** All decisions taken individually by Members of the Executive must be based on written reports setting out key legal, financial, service and corporate implications and may not be taken unless the Corporate Director, Governance (or an officer nominated by them) has agreed the report.
- 22.4** When an officer prepares a report which is to be given to an individual Member for decision, they must first give a copy of that report to the Corporate Director, Governance (or an officer nominated by them).
- 22.5** The Corporate Director, Governance will publish the report to the Overview and Scrutiny Committee, the Chief Executive, Chief Finance Officer and Monitoring Officer. The report will be made publicly available as soon as reasonably practicable.
- 22.6** Individual decisions by Members of the Executive can only be taken in the presence of an officer.
- 22.7** Subject to Rules 18 and 19, the individual decision maker may not make any key decision until notice of the decision has been available for public inspection for at least twenty-eight days before the decision is made.
- 22.8** As soon as is reasonably practicable after an individual Member has made an executive decision they shall produce, or cause to be produced, a written statement including:
- (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected at the time by the Member when making the decision;

- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the Member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

**22.9** A copy of the written statement setting out the decision must be sent to the Corporate Director, Governance. All decisions of the Executive must be published on the Council's website and will be subject to call in as set out in Part B Section 30 of this Constitution.

**22.10** Nothing in these rules relating to the taking of decision by individual Members shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

## **23 DECISIONS MADE BY OFFICERS**

### **Key Decisions**

**23.1** Where officers are taking delegated key decisions, they must follow the procedure set out above for decisions taken by Individual Members of the Executive. This includes ensuring the decision is taken on the basis of a written report setting out key legal, financial and corporate implications.

**23.2** Any officer decisions taken in accordance with Rule 23.1 will be subject to call-in as set out in Section 30 of this Constitution.

### **Other Executive Decisions (Non-Key Decisions)**

**23.3** As soon as is reasonably practicable after an officer has made a non-key decision delegated to the officer by a specific decision of the Executive, or another decision which incurs expenditure or savings over the threshold specified in Section 3 (currently £250k) the officer must produce a written statement including:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected at the time by the officer when making the decision;
- (d) a record of any conflict of interest declared by any Executive Member who was consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

**23.4** Non-key decisions taken by officers are not subject to call in.

**23.5** Nothing in these rules relating to the taking of a decision by individual officers shall require them to disclose confidential or exempt information or the advice of a political adviser or assistant.

**23.6** Rule 23 must be read in conjunction with the Recording of Officers' Decisions Procedure Rules at Section 3 of this Constitution.

## **24. OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS - AFTER A DECISION HAS BEEN MADE**

**24.1** Subject to Rule 24.2 below, any member of the Overview and Scrutiny Committee or of a Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Executive or any of its Committees, and contains material relating to:

- (a) any business which has been transacted at a public or private meeting of the Executive or its Committees; or
- (b) any decision taken by an individual Member of the Executive;
- (c) any key decision that has been taken by an officer in accordance with executive arrangements.

**24.2 Limits on Rights.** Overview and Scrutiny Committee Members and Scrutiny Panel Members shall not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information unless;
  - (i) it is relevant to an action or decision that they are reviewing or scrutinising or intends to review or scrutinise; or
  - (ii) which is relevant to any review contained in any programme of work of an Overview and Scrutiny Committee or Scrutiny Panel;
- (c) any document or part of a document that contains the advice of a political assistant.

## **25. ADDITIONAL RIGHTS OF ACCESS FOR ALL MEMBERS**

**25.1 Material Relating to Council and Committee Meetings.** All Members are entitled to inspect any document which is in the possession or under the control of the Council and contain material relating to any business to be transacted at a meeting of Council or its Committees or Sub Committees unless 25.1.1 below applies:

- (a) it contains exempt information falling within categories 1, 2, 3 (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract), 4, 5 or 7 as set out at Rule 11.5 above.

- 25.2 Material Relating to Executive Meetings.** All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business to be transacted at a public meeting unless either 25.2.1 or 25.2.2 below applies:
- (a) It contains exempt information falling within categories 1, 2, 3, (insofar as the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract) 4, 5 or 7 as set out in rule 11.5 above.
  - (b) It contains the advice of a political assistant.
- 25.3** After the conclusion of a private meeting of the Executive at which an Executive decision has been made, all Members are entitled to inspect any document which is in the possession or under the control of the Executive and contain material relating to business transacted at the meeting in the terms set out at 25.2 above.
- 25.4 Material Relating to Key Decisions.** All Members are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any key decision in the terms set out at 25.2 above.
- 25.5 Nature of Rights.** These rights are additional to any rights of access to information a Member may have

## 28 Budget and Policy Framework Procedure

### CONTENTS

Rule	Subject
1	The Framework for Executive Decisions
2	Process for Developing the Framework
3	Decisions Outside the Budget or Policy Framework
4	Urgent Decisions Outside the Budget or Policy Framework
5	Virement
6	In-Year Changes to Policy Framework
7	Call-In of Decisions Outside the Budget or Policy Framework
8	Suspension

### SUMMARY

Only Council can agree the Authority's budget for the year and the specified plans and strategies that are included in the Budget and Policy Framework. The Mayor and Executive will make proposals to Council in relation to the budget and those plans and strategies, for adoption by Council. If Council does not agree with those proposals of the Mayor/ Executive, a dispute resolution process as set out in section 2 below (but summarised here) applies:-

Where Council wishes to amend the Executive's proposals it may, by a majority vote, send the budget, plan or strategy back to the Executive, who must consider whether or not to make any amendments before re-submitting the item to Council.

When the item is re-submitted, if Council still wishes to amend the proposals, it can do so providing there are at least two-thirds of the Councillors present and voting at the meeting in favour of the amendment(s). Where a two-thirds majority in favour of Council's amendment(s) is not achieved, then the Executive's proposals stand agreed and shall be deemed to be adopted by the Authority.

## **1. THE FRAMEWORK FOR EXECUTIVE DECISIONS**

**1.1** Council will be responsible for the adoption of its budget and policy framework as set out in Section 28. In relation to the budget and the plans and strategies listed in Section 7:-

- (a) The adoption or approval of the plan or strategy is the responsibility of Council;
- (b) The Mayor as the Executive has responsibility for preparing the draft plan or strategy for submission to Council; and
- (c) If Council wishes to amend the Mayor's proposals in relation to the items included in the Budget and Policy Framework only, the Local Authorities (Standing Orders) (England) Regulations 2001 sets out the dispute resolution procedure to be followed. Council must inform the Mayor of any objections which it has to his proposals (i.e. the amendments it wishes to agree) and must give the Mayor at least five working days, starting on the day following the meeting, to reconsider his proposals and re-submit them (amended or not, with reasons) to a further Council meeting. If at this further meeting Council still wishes to amend the Mayor's revised proposals, such a decision requires a two-thirds majority of the Members present and voting. If no valid amendment at the further meeting receives two-thirds support, the Mayor's proposals are deemed adopted in accordance with the regulations.
- (d) Once a budget or a policy framework document has been agreed, it is the responsibility of the Mayor, the Executive and officers to implement it.

## **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

**2.1** The process by which the budget and policy framework shall be developed is:

- (a) The Executive will publicise, by publishing a notice in accordance with the Access to Information Procedure Rules at Part B Section 27 of this Constitution, a timetable for making proposals to Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework and its arrangements for consultation after publication of those initial proposals.
- (b) The Chair of Overview and Scrutiny Committee will be notified of proposals referred to in Rule 2.1.(a) and which shall be referred to Overview and Scrutiny Committee.
- (c) For the purposes of these Procedure Rules the consultation in each instance shall be in line with the Council's normal consultation time periods except where there is an urgent need to reduce the consultation period. The period for Overview and Scrutiny Committee to respond to consultation shall be not less than ten clear working days unless the Executive considers that there are special factors that make this timescale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.



- (d) At the end of the consultation period, having taken account of the responses received to the consultation and the views of the Overview and Scrutiny Committee, the Executive will submit recommendations to Council.
- (e) Council will consider the proposals of the Executive and may adopt them, amend them, refer them back to the Executive for further consideration or substitute its own proposals in their place.
- (f) If Council adopts the Executive's proposals without amendment, the decision shall become effective immediately. However, if, having considered a draft plan or strategy, it has any objections to it Council must take the action set out in 2.1(g).
- (g) Before Council-
  - (i) amends the draft plan or strategy;
  - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for her/his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (iii) adopts (with or without modification) the plan or strategy

it must inform the Mayor of any objections which it has to the draft plan or strategy and if the Mayor accepts the proposed change then it can be agreed at the relevant Council meeting otherwise Council must require the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

- (h) Where Council requires reconsideration in accordance with 2.1(g) above, it must specify a period of at least five working days beginning on the day after the date on which the requirement is made within which the Mayor may:
  - (i) Submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration; or
  - (ii) Inform Council of any disagreement that the Executive has with any of Council's objections and the Executive's reasons for any such disagreement.

If the specified period would prohibit Council from making determinations under Rule 2.1(i) within the statutory deadline for the setting of Council Tax, Council may specify such lesser period as is necessary to ensure compliance.

- (i) Subject to Rule 2.1(j), when the period specified by Council, referred to in Rule 2.1(h), has expired Council must, when:
  - (i) amending the draft plan or strategy or, if there is one, the revised plan or strategy;
  - (ii) approving for the purpose of its submission to the Secretary of State or any Minister of the Crown for her/his approval, any plan or

strategy (whether or not in the form of a draft or a revised draft) of which any part is required to be so submitted; or

(iii) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of Council's objections and the Executive's reasons for that disagreement, which the Mayor submitted to Council, or informed Council of, within the period specified.

(j) Where Council proposes to –

(i) amend the draft plan or strategy or, as the case may be, the revised draft plan or strategy;

(ii) approve, for the purpose of its submission to the Secretary of State or any Minister of the Crown for her/his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

(iii) adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy or, as the case may be, the revised draft plan or strategy, the question whether to amend, to approve or to adopt the plan or strategy must be decided in accordance with paragraph 2.1(k).

(k) The question referred to in Rule 2.1(j) must be decided by a two-thirds majority of the members of Council present and voting on the question at a meeting of Council.

(l) Subject to Rule 2.1(r), where, before 8 February in any financial year, the Executive submits to Council for its consideration in relation to the following financial year:

(i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992 (calculation of budget requirement etc.); or

(ii) estimates of other amounts to be used for the purposes of such a calculation; or

(iii) estimates of such a calculation; or

(iv) is required to be stated as a precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts),

and following consideration of those estimates or amounts Council has any objections to them, it must take the action set out in Rule 2.1(m).

(m) Before Council makes a calculation (whether originally or by way of a substitute) in accordance with any of the sections referred to in Rule 2.1(l) or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Mayor of any objections which it has

to the Executive's estimates or amounts and if the Mayor accepts the proposed change then it can be agreed at the relevant Council meeting otherwise Council must require the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with Council's requirements.

- (n) Where Council requires reconsideration in accordance with Rule 2.1(m), it must specify a period of at least five working days beginning on the day after the date on which the requirement is received, the Mayor may:
  - (i) Submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts") which have been reconsidered in accordance with Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to Council for Council's consideration; or
  - (ii) Inform Council of any disagreement that the Executive has with any of Council's objections and the Executive's reasons for any such disagreement.
- (o) Subject to Rule 2.1(p), when the period specified by Council referred to in Rule 2.1(n) has expired, Council must, when making calculations (whether originally or by way of a substitute) in accordance with any of the sections referred to in Rule 2.1(m) or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:
  - (i) Any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) The Executive's reasons for those amendments;
  - (iii) Any disagreement that the Executive has with any of Council's objections; and
  - (iv) The Executive's reasons for that disagreement,which the Mayor submitted to Council, or informed Council of, within the period specified.
- (p) Where Council, for the purposes of making the calculations or issuing the precept, proposes to use estimates or amounts ('the different estimates or amounts') which are not in accordance with the Executive's estimates or amounts or, as the case may be, the Executive's revised estimates or amounts, the question whether to use the different estimates or amounts must be decided in accordance with Rule 2.1(q).
- (q) The question referred to in Rule 2.1(p) must be decided by a two-thirds majority of the members of Council present and voting on the question at a meeting of Council.
- (r) Rules 2.1(l) to 2.1(q) shall not apply in relation to:
  - (i) Calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of council tax and precept); and

- (ii) Amounts stated in the precept issued to give effect to calculations or substitute calculations made in accordance with sections 52J or 52U of that Act.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 3.1** Subject to the provisions of Rule 5 (virement) the Mayor, Executive, Committees of the Executive and any officers or joint arrangements may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Council, then that decision may only be taken by Council, subject to Rule 4 below.
- 3.2** If the Mayor, Executive, a Committee of the Executive, any officer or joint arrangements want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 4.1** The Mayor, Executive, a Committee of the Executive, an officer or joint arrangements may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Council if the decision is a matter of urgency. However, the decision may only be taken:
  - (a) if it is not practicable to convene a quorate meeting of Council; and
  - (b) if the Chair of the Overview and Scrutiny Committee agrees in writing that the decision is a matter of urgency.
- 4.2** The reasons why it is not practicable to convene a quorate meeting of Council and the Chair of the Overview and Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Overview and Scrutiny Committee, the consent of the Speaker, and in the absence of both, the Deputy Speaker, will be sufficient.
- 4.3** Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **4.4 Urgent Action**

- (a) Where an urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with an executive function, that requires a decision before a meeting of the Executive can be called; the Proper Officer, after consultation with the Mayor or the Cabinet Member in respect of which the matter is associated, shall have power to act and shall report the action to the next meeting of the Executive.
- (b) Urgent action shall not be subject to the call-in procedure and may be implemented with immediate effect.
- (c) Where the Proper Officer considers that urgent action is necessary to protect the interests of the Council, or the inhabitants of the Borough, in connection with a non-executive function, that requires a decision before a meeting of Council or the appropriate committee can be called; the Proper Officer, after consultation with the Speaker or Deputy Speaker, shall have power to act and shall report the action to the next meeting of Council or the relevant Committee.

#### **5. VIREMENT**

- 5.1** Steps taken by the Mayor, the Executive, a Committee of the Executive, an officer, or joint arrangements to implement Council policy shall not exceed the budgets allocated to each relevant budget head. However, such bodies or individuals shall be entitled to vire across budget heads within such limits as shall be laid down in the Financial Procedure Rules. Beyond those limits, approval to any virement across budget heads shall require the approval of the Council.

#### **6. IN-YEAR CHANGES TO BUDGET AND POLICY FRAMEWORK**

- 6.1** The responsibility for agreeing the budget and policy framework lies with Council, and decisions by the Mayor, the Executive, a Committee of the Executive, officers, or joint arrangements must be in line with it. No changes to any budget, plan or strategy which comprises part of the budget and policy framework may be made by those bodies or individuals except those changes:
  - (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
  - (b) which are necessary to ensure compliance with the law, ministerial direction or government guidance;
  - (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by Council following consultation, but where the existing policy document is silent on the matter under consideration;
  - (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

## **7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- 7.1** Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 7.2** In respect of functions which are the responsibility of the Mayor or the Executive, the report of the Monitoring Officer and/or Chief Finance Officer shall be to the Mayor and Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet within twenty-one days of receiving the report to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 7.3** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until Council has met and considered the matter. Council shall meet within twenty-one days of the request from the Overview and Scrutiny Committee (or within twenty-eight days if a meeting of Council is scheduled within that period). At the meeting Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.
- 7.4** Council may either:
- (a) endorse a decision or proposal of the decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of Council be minuted and circulated to all Councillors in the normal way; or
  - (b) amend the budget, financial rule or policy concerned to encompass the decision or proposal of the body or individual responsible for that function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of Council be minuted and circulated to all Councillors in the normal way; or
  - (c) where Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Mayor or Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or the Chief Finance Officer.

**7.5** If Council does not meet, the decision will become effective on the date of Council or expiry of the period in which Council should have been held, whichever is the earlier: providing that the Monitoring Officer and/or the Chief Finance Officer is/are satisfied that the decision is within the budget and policy framework or falls within Rules 6.1(a) – 6.1(d).

## **8. SUSPENSION**

**8.1** Provided it is not contrary to law, these rules may be suspended by Council or, in so far as they are applicable to either body, the Cabinet or the Overview and Scrutiny Committee.

## 29 Executive Procedure Rules

### CONTENTS

Rule	Subject
1	How Does the Executive Operate?
2	How are Executive Meetings Conducted?
3	The Mayor's Executive Scheme of Delegation

#### 1. HOW DOES THE EXECUTIVE OPERATE?

##### 1.1 Who May Make Executive Decisions?

In law, functions which are the responsibility of the Executive may be exercised by

- (a) The Mayor
- (b) The Executive as a whole (the Cabinet);
- (c) A Committee of the Executive;
- (d) An individual Member of the Executive;
- (e) The Chief Executive, a Chief Officer or an officer;
- (f) An area Committee; or a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007;
- (g) joint arrangements; or
- (h) another local authority;

subject to the Mayor or this Constitution giving delegated authority to the person/meeting listed to discharge the particular function.

The arrangements for the discharge of executive functions at Tower Hamlets are set out in the executive arrangements adopted by the Council (as set out in Part A, Section 8 of this Constitution) and the Executive Scheme of Delegation at Rule 3 of these Rules.

Currently decisions on executive functions are taken by the Mayor, either at the Cabinet meeting or separately, unless the Mayor has delegated either a function as set out in those parts of the Constitution or a specific executive decision.



## **1.2 The Executive Scheme of Delegation and Executive Functions**

At the Annual Meeting of the Council the Mayor will present to the Council a written record of delegations made by the Mayor ('The Executive Scheme of Delegation') for inclusion in the Council's Constitution. The document presented by the Mayor must contain the following information in so far as it relates to executive functions:

- (a) The extent of any authority delegated to any individual Executive Member or ward Councillor including details of the limitation on their authority.
- (b) The terms of reference and constitution of such Executive Committees as the Mayor appoints and the names of Executive Members appointed to them.
- (c) The nature and extent of any delegation of executive functions to area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint Committee for the coming year.
- (d) The nature and extent of any delegation of executive functions to officers not already specified in Part B of this Constitution, with details of any limitation on that delegation and the title of the officer to whom the delegation is made.

The Mayor may amend or revoke any delegation of an Executive function at any time.

The Executive Scheme of Delegation shall be included at Rule 3 of these Rules.

Within five working days of agreeing any change to the Executive Scheme of Delegation, a Cabinet appointment or portfolio, the Mayor shall present a written record of the change that they have agreed, together with the reasons for that change, to the Monitoring Officer.

Whenever the Monitoring Officer receives notification from the Mayor of any change(s) to the Executive Scheme of Delegation, Cabinet appointment(s) or portfolio(s), the Monitoring Officer will inform all Councillors of the change(s) made and any reasons given by the Mayor.

## **1.3 Sub-Delegation of Executive Functions**

- (a) Where the Mayor, the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an executive function, they may delegate further to an area Committee, joint arrangements or an officer.

- (b) Unless the Mayor or Cabinet directs otherwise, if the Mayor delegates functions to the Executive then the Executive may delegate further to a Committee of the Executive or an officer.
- (c) Unless the Mayor or Cabinet directs otherwise, a Committee of the Executive to whom functions have been delegated may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

#### **1.4 The Council's Scheme of Delegation and Executive Functions**

- (a) Subject to (b) below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Part A, Section 8.
- (b) The Mayor may amend the Scheme of Delegation of executive functions at any time during the year. To do so, the Mayor must give written notice to the Monitoring Officer and the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body or Committee or the Executive as a whole. The Monitoring Officer will inform all Councillors of the change(s) made and any reasons given by the Mayor.
- (c) Where the Mayor seeks to withdraw or amend delegations to a Committee, notice will be deemed to be served on that Committee when it has been served on its Chair.

#### **1.5 Interests**

- (a) Where a Member of the Executive has a disclosable pecuniary interest this should be dealt with as set out in the Council's Code of Conduct for Members at Part C Section 31 of this Constitution.
- (b) If every Member of the Executive has either a registerable or non-registerable interest and either interest might appear to a fair and informed observer that there was a real possibility of the Members' judgement being or likely to be impaired by the interest then this also should be dealt with as set out in the Council's Code of Conduct for Members in Part C Section 31 of this Constitution.
- (c) Where a Member of the Executive has either a registerable or non-registerable interest and either interest might appear to a fair and informed observer that there was a real possibility of the Member's judgement being or likely to be impaired by the interest then this should be dealt with as set out in the Council's Code of Conduct for Members at Part C Section 31 of this Constitution.
- (d) If the exercise of an executive function has been delegated to a Committee of the Executive, an individual Member, the Chief

Executive, a Chief Officer or an officer, and should a disclosable pecuniary interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made or otherwise as set out in the Council's Code of Conduct for Members at Part C Section 31 of this Constitution.

- (e) If the exercise of an executive function has been delegated to a Committee of the Executive, an individual Member, the Chief Executive, a Chief Officer or an officer, and should either a registerable or non-registerable interest and either interest might appear to a fair and informed observer that there was a real possibility of that person's judgement being or likely to be impaired by the interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made or otherwise as set out in the Council's Code of Conduct for Members at Part C Section 31 of this Constitution.

## **1.6 Meetings of the Cabinet**

- (a) Meetings of the Cabinet will be determined by the Mayor or Chief Executive. The Cabinet shall normally meet at the Council's main offices or at another location as appropriate.
- (b) Meetings of the Cabinet will be subject to the Access to Information Procedure Rules and any other relevant procedure rules in this Constitution.

## **1.7 Quorum**

The quorum for a meeting of the Executive shall be three Members of the Cabinet including the Executive Mayor, or where notified in advance to the Monitoring Officer, the Statutory Deputy Mayor.

## **1.8 How are Decisions to be taken by the Executive?**

- (a) Executive decisions which are the responsibility of the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part B of the Constitution.
- (b) Where executive decisions are delegated to a Committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

## **2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who Presides?**

If the Mayor is present they will preside. In their absence, then the Deputy Mayor shall preside. In the absence of both the Mayor and the Deputy Mayor, then Cabinet is not quorate and may not meet (as set out in Paragraph 1.7).

## **2.2 Who may Attend?**

- (a) Meetings of the Cabinet will normally be open to the public unless confidential or exempt information is to be discussed.
- (b) Subject to the Access to Information Procedure Rules in Part B Section 27 of this Constitution, meetings may occasionally be private.

## **2.3 What Business?**

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of disclosable pecuniary interest, if any;
- (c) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part B Section 27 of this Constitution.
- (d) consideration of reports from the Overview and Scrutiny Committee;
- (e) matters referred to the Executive (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part B Section 28 of this Constitution;

The Mayor or other person presiding at a meeting of the Cabinet may at their discretion allow persons other than Cabinet members to contribute to the meeting.

## **2.4 Community Engagement/ Consultation**

All reports to the Executive from any Member of the Executive or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of community engagement or consultation with stakeholders, Overview and Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of community engagement or consultation required will be appropriate to the nature of the matter under consideration having due regard to the Council's Community Engagement Strategy.

## **2.5 Who can put Items on the Executive Agenda?**

The Mayor and Chief Executive may put on the agenda of any Cabinet meeting any Executive matter which they wish, whether or not authority has

been delegated to the Cabinet, a Committee of it, any Member, the Chief Executive, a Chief Officer or officer in respect of that matter. The Corporate Director, Governance will comply with their requests in this respect.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two (2) of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly call a meeting and include an item on the agenda of that meeting or of a Cabinet meeting which has already been called. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.6 Application of Council Procedure Rules**

Rules 5 – 9, 16.1 to 16.3 and 17 to 24 of the Council Procedure Rules (Part B Section 26 of this Constitution) shall also apply to meetings of the Cabinet.

## **2.7 Public Engagement at Cabinet**

Whilst the main focus of Cabinet is as a decision-making body, there is an opportunity for the public to contribute through making submissions that specifically relate to the reports that are set out on the agenda. Members of the public may therefore make written submissions in any form (for example; Petitions, letters, written questions) and which to be submitted to the Clerk to Cabinet (whose details are on the agenda front sheet) by 5 pm the day before the meeting. The consideration of such written submissions will be at the discretion of whosoever presides at the meeting.

### **3. THE MAYOR'S EXECUTIVE SCHEME OF DELEGATION**

**With effect from 3 June 2020**

#### **PART A - EXECUTIVE SCHEME OF DELEGATION**

##### **1. PURPOSE**

1.1 The purpose of this Executive Scheme of Delegation is to:-

- (a) be clear about who can make which executive decisions including Key Decisions;
- (b) facilitate the smooth running of Council business;
- (c) ensure that the Mayor is able to provide effective strategic leadership for the overall policy direction of the Council and to promote partnership working with other agencies; and that officers take responsibility for operational matters and policy implementation.

##### **2. THE CONSTITUTION**

2.1 Once presented by the Mayor to the Annual Council Meeting or to the Monitoring Officer, this Executive Scheme of Delegation will form part of the Council's Constitution and will be appended to it. Its provisions apply alongside the Council Procedure Rules (Section 26) and Access to Information Procedure Rules (Section 27) provisions included in the Constitution.

##### **3. AMENDMENTS TO THE EXECUTIVE SCHEME OF DELEGATION**

3.1 This Scheme of Delegation remains in force for the term of office of the Mayor unless and until it is amended or revoked by the Mayor in accordance with Rule 1.2 of the Executive Procedure Rules.

##### **4. NON-EXECUTIVE DECISIONS**

4.1 No delegated power in this Executive Scheme of Delegation applies to any decision that relates to a matter that is not an Executive function either by law or by the allocation of local choice functions under the Council's Constitution.

## 5. THE COMPOSITION OF THE EXECUTIVE

5.1 The Executive shall consist of ten (10) people, namely the Mayor and nine (9) Councillors as set out below:-

Name	Portfolio
Deputy Mayor for Community Safety, Faith and Equalities (Statutory Deputy Mayor)	Cllr Sirajul Islam
Deputy Mayor for Adults, Health and Wellbeing	Cllr Rachel Blake
Deputy Mayor for Children, Youth Services and Education	Cllr Asma Begum
Housing	Cllr Danny Hassel
Culture, Arts and Brexit	Cllr Sabina Akhtar
Work and Economic Growth	Cllr Motin Uz-Zaman
Resources and the Voluntary Sector	Cllr Candida Ronald
Environment and Public Realm	Cllr Asma Islam (job share) ^ Cllr Dan Tomlinson (job share)*
Planning and Social Inclusion	Cllr Mufedah Bustin (job share)* Cllr Eve McQuillan (job share)^

\* Official Cabinet Member from 3<sup>rd</sup> June 2020 to 6<sup>th</sup> December 2020

^ Official Cabinet Member from 7<sup>th</sup> December to 19<sup>th</sup> May 2021 (or until a new schedule of delegations is agreed by the Mayor)

5.2 Where Cabinet roles are held by job share Cabinet Members one of the two councillors for the portfolio will be appointed as the official Cabinet Member who will retain official responsibility for the whole portfolio for the first six months. Following this, the second Cabinet Member will take up the official role for the second six-month period.

5.3 Only the Councillor designated as the 'official' Cabinet Member at any given time may vote at the relevant meeting of Cabinet but both Job Share Members may introduce reports and take part in discussions.

5.4 Job share Cabinet Members will have day to day advisory responsibility for distinct areas of the portfolio. These responsibilities will be published on the council's website.

5.5 Special Responsibility Allowances for both job share Cabinet Members will be paid monthly with each receiving the equivalent of half a Cabinet Member SRA.

- 5.6 For the purposes of the Constitution, both job share Cabinet Members will be treated as if they were members of the executive. For example, they would not be able to serve on O&S during the six months there were not the 'official' Cabinet Member.
- 5.7 The Council has the power to appoint Mayoral Advisors to give specific focus to cross cutting themes and mayoral priorities supporting and advising the Mayor and Cabinet on specific issues. Mayoral Advisors are not members of the Executive.

## **6. DELEGATIONS TO THE EXECUTIVE**

- 6.1 The Mayor has delegated his decision-making powers to the Executive acting collectively as the Cabinet or as a Cabinet Sub-Committee where established under Rule 6.2.
- 6.2 The Mayor may, in accordance with Rule 1.2 of the Executive Procedure Rules, appoint such committees of the Executive as he considers appropriate from time to time and he appoints the following at this time:
- King George's Fields Charity Board
  - The Grants Determination Sub-Committee
- 6.3 Subject to the Mayor's prerogative to make decisions on all matters relating to all his statutory powers, including as individual mayoral decisions taken outside of Cabinet, the Mayor delegates to each Cabinet Member individually the power to make decisions on matters within their portfolio after consultation with the Mayor and subject to the Mayor raising no objection to the proposed decision. Any such decision by a cabinet member will be subject to a written report and the same procedure as applies to individual mayoral decisions.
- 6.4 In accordance with section 14(6) of the Local Government Act 2000 (as amended), any arrangements made by the Mayor for the discharge of an executive function by an executive member, committee or officer are not to prevent the Mayor from exercising that function.

## **7. DELEGATIONS TO OFFICERS**

- 7.1 The Mayor has delegated to officers decision making powers in relation to Executive functions as set out at Parts B and D of the Council's Constitution.

## **8. OTHER DELEGATIONS**

- 8.1 The Mayor has not delegated any powers to any area committee, or to any ward Councillor in accordance with section 236 of the Local Government and Public Involvement in Health Act 2007.



8.2 The Mayor has delegated powers to joint arrangements with other local authorities as set out in Part A, Section 12 and Part B Section 21 of the Council's Constitution

8.3 Subject to paragraph 8.2 above, the Mayor has not delegated any powers to any other local authority.

**9. PROCESS FOR EXECUTIVE DECISION MAKING BY THE MAYOR OR A CABINET MEMBER**

9.1 The process for taking individual executive decisions, including Key Decisions, is set out in Part D Section 53.

## 30 Overview and Scrutiny Procedure Rules

### STATUTORY SCRUTINY OFFICER

1. As required under Section 9FB Local Government Act 2000, the Council will appoint a Statutory Scrutiny Officer whose role is to oversee the arrangements for the Overview and Scrutiny function.
2. The Statutory Scrutiny Officer shall be the officer holder of the following post:
  - Divisional Director, Strategy, Policy and Performance.

### THE ARRANGEMENTS FOR OVERVIEW AND SCRUTINY

3. Council will appoint an Overview and Scrutiny Committee (OSC) to discharge the functions conferred by sections 9F to 9FI of the Local Government Act 2000; section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters); or any functions which may be conferred on it by virtue of regulations under section 244(2ZE) of the National Health Service Act 2006 (local authority scrutiny of health matters).
4. There will be one standing Scrutiny Sub-Committee to discharge the Council's functions under the National Health Service Act 2006 and OSC may also appoint such other Sub-Committees as the Committee considers appropriate to carry out its work programme.
5. The role of Overview and Scrutiny is to:
  - (i) Review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the Executive.
  - (ii) Make reports or recommendations to Council and/or the Mayor or the Executive in connection with the discharge of any functions which are the responsibility of the Executive.
  - (iii) Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive.
  - (iv) Make reports or recommendations to Council and/or the Mayor or the Executive with respect to the discharge of any functions which are not the responsibility of the Executive.
  - (v) Make reports or recommendations to Council and/or the Mayor or the Executive on matters affecting the Council's area or its inhabitants.
  - (vi) Exercise the right to call in for reconsideration decisions made but not yet implemented.
  - (vii) Refer any report it receives with implications for ethical standards to the Standards Advisory Committee for its consideration.
  - (viii) Consider any local matters referred to the Committee by a Councillor in accordance with the Council's Councillor Call for Action procedure.

## **THE OVERVIEW AND SCRUTINY COMMITTEE**

6. The Overview and Scrutiny Committee will comprise nine Members of the Council and up to two co-opted members. Up to three substitutes per political group may be appointed. Its terms of reference are set out in detail in Section 19 of the Constitution but they include:
- (a) The performance of all overview and scrutiny functions on behalf of the Council.
  - (b) The appointment of such Scrutiny Sub-Committees as it considers appropriate to fulfil those functions; determining those Sub-Committees' composition (including any co-opted Members); and the terms of reference of those Sub-Committees.
  - (c) To have a strategic and co-ordinating role over the Council's scrutiny function and to approve an annual overview and scrutiny work programme including the work programme of any Scrutiny Sub-Committees it appoints to ensure that there is efficient and effective use of the Committee's time and the time of its Scrutiny Sub-Committees.
  - (d) To advise the Mayor and Cabinet of key issues/questions to be considered in relation to reports due to be considered by the Executive.
  - (e) To exercise the right to call in for reconsideration any executive decisions taken but not yet implemented.
  - (f) To determine whether to request Council to review or scrutinise any decision called in, where considered contrary to the budget and policy framework and whether to recommend that the decision be reconsidered.
  - (g) To receive and consider requests from the Executive for scrutiny involvement in the annual budget process.
  - (h) To monitor the Executive's forward plan to ensure that appropriate matters are subject to scrutiny.
  - (i) To consider any local matter referred to the Committee by a Councillor in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007 and S.9 FC of the Local Government Act 2000 as amended (set out in the Councillor Call for Action guide in Part D, Section 53 of the Constitution)..
  - (j) To discharge the functions conferred by the Police and Justice Act 2006 as the Council's Crime and Disorder Committee.

## **SCRUTINY SUB-COMMITTEES**

7. The Overview and Scrutiny Committee may establish such Sub-Committee as it considers appropriate. At this time the following sub-committees have been established:

- Children and Education Scrutiny Sub-Committee
  - Health and Adults Scrutiny Sub-Committee
  - Housing and Regeneration Scrutiny Sub-Committee
8. The Health and Adults Scrutiny Sub-Committee will undertake the Council's functions under the National Health Service Act 2006 and consider matters relating to the local health service as provided by the NHS and other bodies including the Council:
- (a) To review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;
  - (b) To respond to consultation exercises undertaken by an NHS body; and
  - (c) To question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of the services.
9. The membership of individual Scrutiny Sub-Committees and their terms of reference will be determined by the Overview and Scrutiny Committee. They will include the following:
- (a) To investigate, scrutinise, monitor and advise in relation to:
    - (i) How services are being delivered and the Council's functions discharged.
    - (ii) How policies have been implemented and their effect on the Council's corporate strategies (i.e. equal opportunities, antipoverty and crime and disorder).
    - (iii) The development of relevant policy.
    - (iv) How resources are being used, spent and managed.
    - (v) Any other matter, relevant to the specific remit of the Scrutiny Sub-Committees, which affects the Council's area or any of its inhabitants.
10. it is expected that Scrutiny Sub-Committees would meet at least five times a year.

#### **WHO CHAIRS THE OVERVIEW AND SCRUTINY COMMITTEE AND THE SCRUTINY SUB-COMMITTEES**

11. The Chair of the Overview and Scrutiny Committee and the Chairs of the Scrutiny Sub-Committees will be drawn from among the Councillors sitting on the Committee.
12. Council shall appoint a Member to serve as Chair of the Overview and Scrutiny Committee. If Council does not, and subject to the requirement at 11. above, the Committee may appoint such a person as it considers appropriate as Chair.

13. The Overview and Scrutiny Committee will appoint the Chair and Members of any Sub-Committees. The Vice-Chair of each Committee and Sub-Committee shall be appointed by the Committee or Sub-Committee itself.

### **SCRUTINY LEAD MEMBERS**

14. The Overview and Scrutiny Committee will select from among its Councillor Members lead Scrutiny Members, one for each of the following portfolios:-

Overview and Scrutiny Committee's Chair's Portfolio  
Children & Education\*  
Community Safety and Environment  
Health & Adults\*  
Housing & Regeneration\*  
Resources and Finance

\*To Chair the related Scrutiny Sub-Committee.

These themes may be subject to change from time to time and will be agreed by the Overview and Scrutiny Committee.

### **WHO MAY SIT ON OVERVIEW AND SCRUTINY?**

15. All Councillors except Members of the Executive may be Members of the Overview and Scrutiny Committee and Scrutiny Sub-Committees. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

### **CO-OPTees**

16. The Overview and Scrutiny Committee will be responsible for approving co-opted Members for the Scrutiny Sub-Committees. Co-opted Members will be non-voting except in relation to Education matters only (see 'Education Representatives' below).

### **EDUCATION REPRESENTATIVES**

17. The Children and Education Scrutiny Sub-Committee must include in its membership the following voting representatives in respect of education matters:
  - (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 3 parent governor representatives elected under the procedures contained in the Parent Governor Representatives (England) Regulations 2001.

18. The Committee may also include a Muslim representative who can also vote in respect of education matters.
19. These Members may speak but not vote on any other (i.e. non educational) matters.
20. Rules 16 to 18 also apply to any other Scrutiny meeting where an education matter is to be discussed.
21. These Members may also receive the same Executive unrestricted and restricted agenda papers in relation to executive decision making as the Councillor Members of the Committee/Sub-Committee to which they are appointed.

### **MEETINGS**

22. The Overview and Scrutiny Committee shall meet in accordance with the calendar of meetings approved by Council. The Chair of the Committee may call an extraordinary meeting of the Committee at any time subject to the ordinary rules on the convening of meetings and the Access to Information Procedure Rules (see Section 27 of the Constitution).
23. The Scrutiny Sub-Committees shall meet in accordance with a timetable agreed by the Overview and Scrutiny Committee, but will establish their own pattern of meetings within this framework and the Chair of the Overview and Scrutiny Committee may decide to lead any Scrutiny Sub-Committees.
24. The Overview and Scrutiny Committee and its Sub-Committees will generally meet in public and will conduct their proceedings in accordance with these procedure rules and the Access to Information Rules at Section 27.

### **QUORUM**

25. The quorum for the Overview and Scrutiny Committee and the Scrutiny Sub-Committees shall be three voting Members.

### **WORK PROGRAMME**

26. The Overview and Scrutiny Committee will be responsible for agreeing the overview and scrutiny work programme for the year.

### **AGENDA ITEMS**

27. Any Member of the Overview and Scrutiny Committee and/or any Scrutiny Sub-Committee shall be entitled to give notice to the Statutory Scrutiny Officer that they wish an item relevant to the functions of the Committee to be included on the agenda for the next available meeting. On receipt of such a request the Statutory Scrutiny Officer will ensure that it is included on the next

available agenda provided that it is relevant to the Committee work programme.

28. The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from Council and if it considers it appropriate the Mayor or Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Mayor/Executive and/or Council. The Executive shall consider the matter at one of its next two meetings following receipt of the report. If the matter is relevant to the Council only then will they consider the report at their next meeting.
29. Any Council Member may refer to the Overview and Scrutiny Committee a local government matter in accordance with section 119 of the Local Government and Public Involvement in Health Act 2007. In relation to any matter referred under this provision, the Committee shall consider whether or not to exercise its powers under section 21B of the Local Government Act 2000 to make a report or recommendation(s) to Council or the Executive on the matter.
30. A “local government matter” at 28 above is one that:
  - (a) relates to the discharge of any function of the authority;
  - (b) affects all or part of the Member’s electoral area or any person who lives or works in that area; and
  - (c) is not an excluded matter.

Excluded matters are:

  - any matter relating to a planning decision;
  - any matter relating to a licensing decision;
  - any matter relating to an individual in respect of which the individual has a right of appeal; and
  - any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or disclosed at, the Overview and Scrutiny Committee or Sub-Committee.
31. If the Committee decides not to exercise any of its powers in relation to a matter referred to it under 28 above, it shall notify the Member who referred the matter of its decision and the reasons for it. If the Committee does make any report or recommendation(s) to the authority or the executive on the matter referred, it shall provide the Member with a copy of that report or recommendation(s), subject to the provisions of section 21D of the Local Government Act 2000 regarding confidential or exempt information.

## **SPECIFIC ROLE OF THE SCRUTINY COMMITTEE AND SUB-COMMITTEES**

- a) Review and scrutinise the performance of the Council in relation to its policy objectives and performance targets and/or particular service areas.
- b) Question the Mayor, members of the Executive and/or Committees and chief officers about their decisions and performance whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- c) Make recommendations to the Mayor/Executive as well as appropriate Committees and/or Council arising from the outcome of the scrutiny process.
- d) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant scrutiny body and local people about their activities and performance.
- e) Question and gather evidence from any person.
- f) **Pre-Scrutiny.** The Overview and Scrutiny Committee may consider a matter prior to its consideration and make comments in connection with the issue so that such comments can be taken into account by the decision maker when making the decision on the matter.
- g) **Finance.** The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it.
- h) **Petitions.** The Overview and Scrutiny Committee will consider requests for reviews on petitions as set out in the Council's Petitions Scheme.
- i) **Annual Report.** The Overview and Scrutiny Committee must report annually to Council on its work.

## **POLICY REVIEW AND DEVELOPMENT**

32. The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules (see Part B Section 28 of the Constitution). A summary is set out below:
  - (i) Assist the Council and the Executive in the development of its budget and policy framework by in depth analysis of policy issues.
  - (ii) Conduct research, consultation with the community and other consultation in the analysis of policy issues and possible options.
  - (iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
  - (iv) Question members of the Executive and/or Committees and chief officers about their views on issues and proposals affecting the area.
  - (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.



33. In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the Mayor or Executive for developments in so far as they relate to matters within its terms of reference.
34. The Overview and Scrutiny Committee or any Scrutiny Sub-Committee established for this purpose may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **REPORTS FROM OVERVIEW AND SCRUTINY**

35. The Overview and Scrutiny Committee will report to Council, Cabinet or the Mayor or appropriate Cabinet Member and make recommendations as appropriate. All reports from Scrutiny Sub-Committees will be agreed by the relevant sub-committee and the Chair of that Committee will provide an update at the next meeting of the Overview and Scrutiny Committee. If the report cannot be agreed by the Sub-Committee, or if there are not any meetings of Sub-Committee, and in other exceptional circumstances, the report can be agreed by the Overview and Scrutiny Committee. Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Executive Mayor and relevant Cabinet Member and Senior Officers for consideration and a formal response (if the proposals are consistent with the existing budgetary and policy framework) or to Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
36. The Executive shall consider the report of the Overview and Scrutiny Committee and/or Sub-Committee at one of its future meetings setting out its response to any recommendations. The Council will consider the report at its next ordinary meeting if appropriate.

### **SCRUTINY REVIEW GROUPS**

37. The following rules apply to reports prepared by Scrutiny Review Groups replacing the general rules set out above. The Overview and Scrutiny Committee or its Sub-Committee may set up a 'Review Group' to examine a particular service or issue. The Review Group will comprise Scrutiny Members and internal and external experts as required. At the conclusion of its work the Review Group will report back to its parent Committee/Sub-Committee with its findings and recommendations.

38. The parent Committee/Sub-Committee will then consider those findings and recommendations. It may, should it wish then refer those recommendations to the Mayor and Executive or the Council for a response.
39. If, following consultation with the Mayor and Executive, officers are in agreement with the proposed recommendations set out, then the report shall be accepted by the relevant Corporate Director under delegated authority. This determination must take place within one month of receipt of the report.
40. If no decision under 38 is taken, there is a challenge to the recommendations, or the Mayor and Executive specifically wish to comment on the report, then the Executive shall consider the report of the Overview and Scrutiny Committee at one of its future meetings following submission of the report. The Council will consider the report at its next ordinary meeting if appropriate.

### **MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE EXECUTIVE**

41. Once the Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Statutory Scrutiny Officer who will allocate it to either the Executive or the Council for consideration in accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and the Local Authorities (arrangements for the Discharge of Functions) Regulations 2000.
42. If the Statutory Scrutiny Officer, following consultation with the Monitoring Officer, refers the matter to Council, they may first refer it to the Mayor or Executive, who will have two weeks in which to consider the Overview and Scrutiny report and formulate any additional comments or recommendations.
43. For the avoidance of doubt, the Mayor or Executive shall not alter or amend any Overview and Scrutiny Committee report before referring it to Council, but shall only make additional comments or recommendations (including any corporate, financial or legal implications) as may be appropriate. However, if Council does not agree with the Mayor's or Executive's recommendations, the disputes resolution procedure in Rule 2 of the Budget and Policy Framework Procedure Rules (see Section 28 of the Constitution) will apply.
44. If the contents of the report would not have implications for the Council's budget and policy framework, and is thus not referred to Council by the Monitoring Officer, the Mayor or Executive will have two weeks in which to consider the matter and respond to the overview and scrutiny report.
45. Where the Overview and Scrutiny Committee makes a report or recommendations to the authority or the Mayor or Executive in accordance with section 21B of the Local Government Act 2000 as amended, the Committee shall by notice in writing require the authority or Mayor or Executive:-

(a) to consider the report or recommendations;

- (b) to respond to the Overview and Scrutiny Committee indicating what (if any) action the authority propose, or the Mayor or Executive proposes, to take;
- (c) if the Overview and Scrutiny Committee has published the report or recommendations, to publish the response,
- (d) if the Overview and Scrutiny Committee provided a copy of the report or recommendations to a Member of the Authority under paragraph 9.4 of these Procedure Rules then it is to provide that Member with a copy of the response, and to do so within two months beginning with the date on which the authority or Mayor or Executive received the report or recommendations or (if later) the notice.

46. It is the duty of the authority or Mayor or Executive to which a notice is given under 45 above to comply with the requirements specified in the notice.

### **RIGHTS OF COMMITTEE MEMBERS TO DOCUMENTS**

47. In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee or a Scrutiny Sub-Committee have such additional rights to documents, and to notice of meetings as may be set out in the Access to Information Procedure Rules (see Part B Section 27 of the Constitution).
48. Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

### **MEMBERS AND OFFICERS GIVING ACCOUNT**

49. The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. As well as reviewing documentation, in fulfilling their role, they may require the Mayor, any other Member of the Executive, a Councillor, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance, within their area of responsibility; and it is the duty of those persons to attend as so required.
  - (d) any function exercisable by a Councillor in accordance with any delegation made by the Council under section 236 of the Local Government and Public Involvement in Health Act 2007.
50. Where the Mayor, any Member or officer is required to attend the Overview and Scrutiny Committee or a Scrutiny Sub-Committee under this provision, the Chair of the Committee or Sub-Committee will inform the Chief Executive. The Chief Executive shall inform the Mayor, Member or officer in writing giving

at least fifteen working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee or Sub-Committee. Where the account to be given to the Committee will require the production of a report, then the Mayor, Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

51. Where, in exceptional circumstances, the Mayor, Member or officer is unable to attend on the required date, then the Committee or Sub-Committee shall in consultation with the Mayor, Member or officer arrange an alternative date for attendance, to take place within a maximum of twenty-one working days from the date of the original request.
52. Except in exceptional circumstances, any failure by the Mayor or Member to attend the Committee or Sub-Committee will be considered a breach of the Code of Conduct for Members and investigated accordingly. Any failure by an Officer to attend will be dealt with under the appropriate disciplinary procedure.

#### **ATTENDANCE BY OTHERS**

53. The Overview and Scrutiny Committee or a Scrutiny Sub-Committee may invite people other than those people referred to in 'Members and Officers Giving Account' above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend.

#### **CALL-IN**

54. When a decision is made by the Mayor, the Cabinet, an individual Member of the Executive, a Committee of the Executive, or a key decision is made by an officer with delegated authority or under joint arrangements, the decision shall be published on the Council's website. Members of the Overview and Scrutiny Committee will be sent an alert when all such decisions within the same timescale, by the person responsible for publishing the decision.
55. The decision publication and call-in deadlines are all published in advance on the Council's website. Decisions will come into force, and may then be implemented at 5pm on the fifth clear working day, after the publication of the decision unless, after receiving a written request to do so, the Monitoring Officer calls the decision in.
56. During that period, the Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by:
  - (a) Not fewer than five Members of the Council; or

- (b) Two voting church, faith or parent governor representative in respect of any education matters only;
  - (c) The request for a call-in must give reasons in writing and outline an alternative course of action. In particular, the request must state whether or not those Members believe that the decision is outside the policy or budget framework.
57. The Monitoring Officer shall call-in a decision within twenty-four hours of receiving a written request to do so and shall place it on the agenda of the next meeting of the Overview and Scrutiny Committee on such a date as they may determine, where possible after consultation with the Chair of the Committee, and in any case within five clear working days of the decision to call-in. However, the Monitoring Officer will not call-in:
- (a) Any decision which has already been the subject of call-in;
  - (b) A decision which is urgent as defined in Rule 64 below and has to be implemented prior to the completion of any review. In such circumstances the decision-taker(s) shall give reasons to the Overview and Scrutiny Committee; and
  - (c) Decisions by regulatory and other Committees discharging non-executive functions;
  - (d) Day to day management and operational decisions taken by officers;
  - (e) A resolution which merely notes the report or the actions of officers;
  - (f) A resolution making recommendations to Council.
58. Where the matter is in dispute, both the Chief Executive and the Monitoring Officer should be satisfied that one of the above criteria applies.
59. The Monitoring Officer shall then notify the decision taker of the call-in, who shall suspend implementation of the decision.
60. If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Mayor or Executive for reconsideration, setting out in writing the nature of its concerns or if the matter should properly be considered by Council refer the matter to Council. If referred to the decision-maker they shall then reconsider within a further five clear working days or as soon as is reasonably practical thereafter, amending the decision or not, before adopting a final decision.
61. For the avoidance of doubt, if the Overview and Scrutiny Committee refers a matter back to the decision-making person or body, the implementation of that decision shall be suspended until such time as the decision-making person or body reconsiders and either amends or confirms that decision.
62. If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the

matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further five working day period, whichever is the earlier.

63. If the matter was referred to Council and Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if Council does object, then Council will refer any decision to which it objects back to the decision-making person or body together with Council's views on the decision. That decision-making person or body shall decide whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of the Executive, a meeting will be convened to reconsider within five clear working days of the request. Where the decision was made by an individual, the individual will also reconsider within five clear working days of the request.
64. If Council does not meet, or it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of Council or expiry of the period in which the meeting should have been held, whichever is the earlier.

#### **CALL-IN AND URGENCY**

65. The call-in procedure set out above shall not apply where the decision being taken by the Mayor, the Executive or a Committee of the Executive, or the key decision being made by an officer with delegated authority from the Executive or under joint arrangements is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.
66. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
67. The Chair of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Speaker's consent shall be required. In the absence of both, the consent of the Deputy Speaker or the Head of Paid Service or her/his nominee shall be required.
68. Decisions taken as a matter of urgency must be reported to the next available meeting of Council, together with the reasons for urgency.
69. The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

#### **THE PARTY WHIP**

70. The use of the party whip to influence decisions of the Overview and Scrutiny Committee or one of its Sub-Committees is inappropriate and should not be used.
71. In this rule “a party whip” means any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before Council or any Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner.

## **PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

72. The Overview and Scrutiny Committee and the Scrutiny Panels shall consider the following business:
  - (a) Minutes of the last meeting;
  - (b) Declarations of interest;
  - (c) Consideration of any matter referred to the Committee for a decision in relation to call-in;
  - (d) Responses of the Executive to reports of Overview and Scrutiny;
  - (e) The business otherwise set out on the agenda for the meeting.
73. Where the Overview and Scrutiny Committee or a Scrutiny Sub-Committee conducts investigations (e.g. with a view to policy development), the body may also ask people to attend to give evidence at meetings of the body. Such meetings are to be conducted in accordance with the following principles:
  - (a) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (b) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
74. Following any investigation or review, the Committee or Sub-Committee shall prepare a report, for submission to the Mayor/Executive and/or Council as appropriate by the Overview and Scrutiny Committee, and shall make its report and findings public in so far as the report does not contain exempt or confidential information.

## **SUSPENSION**

75. Any part of these Rules may be suspended in accordance with Council Procedure Rule 23 of Part B Section 26 of this Constitution provided such suspension is not contrary to the law.



# Part C – Codes and Protocols





## Part C – Codes and Protocols

### Contents

Part C – Codes and Protocols.....	211
31 Code of Conduct for Members .....	212
32 Member / Officer Relations’ Protocol.....	228
33 Employee Code of Conduct .....	244
34 Licensing Code of Conduct.....	257
35 Planning Code of Conduct .....	277
36 Financial Regulations and Procedure Rules .....	296
37 Contracts and Procurement Procedure Rules.....	323
38 Officer Employment Procedure Rules .....	361
39 London Borough of Tower Hamlets: Members’ Allowances Scheme.....	370

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## 31 Code of Conduct for Members

### Application of the Code

1. The Code applies to the Mayor, councillors and co-opted members of the Council, collectively referred to as member(s) in the remainder of this document.
2. It applies in all aspects of your activities as a member, including when acting on Council business or when you are perceived by the public to be acting as a member. The Code does not seek to regulate what you do in your private and personal life.
3. The obligations set out in this Code are complementary to related Codes and Protocols which form part of the Council's governance arrangements.

### Purpose of the Code

4. The Code of Conduct will assist you in the discharge of your obligations to the Council, local communities and the public at large by:
  - a) setting out the standards of conduct that are expected of you; and
  - b) providing the openness and accountability necessary to ensure public confidence in the way in which you perform your public duties.

### General Expectations of Conduct

5. You are expected to observe the following general principles of conduct. These principles will be taken into consideration in determining allegations of a breach of this Code.
  - a) **Selflessness:** you should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - b) **Integrity:** you should not place yourself in situations where your integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
  - c) **Objectivity:** you should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
  - d) **Accountability:** you are accountable to the public for your actions and the manner in which you carry out your responsibilities and should co-operate fully and honestly with any scrutiny appropriate to your particular office.
  - e) **Openness:** you should be as open as possible about your actions and those of the council and be prepared to give reasons for those actions.

- f) **Honesty:** – you should be truthful in your council work and avoid creating situations where your honesty may be called into question.
- g) **Leadership:** you should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

### **Rules of Conduct**

- 6. You must act solely in the public interest. You should promote equality and not discriminate unlawfully against any person. You should treat all people with respect, you should not bully or harass any person and you should respect the impartiality and integrity of the Council's officers.
- 7. You should not improperly confer (or seek to confer) an advantage or disadvantage on any person. You should not act to gain financial or other benefit for yourself, your family, your friends or your business associates.
- 8. You should not place yourself under a financial or other obligation to any individual or organisation that might seek to influence the performance of your duties as a member.
- 9. You should act to ensure Council resources are used prudently. When using or authorising the use by others of Council resources, you must ensure that they are used only for legitimate Council purposes and not for any other purpose. In particular, they must not be used improperly for political purposes (including party political purposes).
- 10. You should promote and support high standards of conduct by leadership and example.
- 11. You should make decisions on merit, including when awarding contracts, making appointments, or recommending individuals for rewards or benefits.
- 12. You are accountable to the public for your actions and the manner in which you carry out your responsibilities and should co-operate fully and honestly with any scrutiny appropriate to your office.
- 13. You should be as open as possible about your decisions and actions and those of the Council. You should be prepared to give reasons for decisions and have regard to the advice of the Council's statutory officers before making any decision.
- 14. You should take account of the views of others, including your political group, but you must reach your own conclusions and act in accordance with those conclusions.

15. You must not disclose confidential information unless you are required by law to do so, or you have the consent of the person authorised to give it, or disclosure is reasonable and in the public interest and made in good faith and not for an ulterior motive.
16. You must ensure that your use of allowances, facilities and services provided at public expense is strictly in accordance with any rules or requirements set by the Council.
17. You must comply with any formal standards investigation and you should not make trivial or malicious allegations of breach of this Code.
18. You must comply with the Council's Social Media Policy.

### **Members' Interests**

19. There are two categories of interest that you must register with the Monitoring Officer. These are:
  - Disclosable pecuniary interests (DPI's); and
  - Non-DPI interests that the Council has decided should be registered (Non-DPI's)
20. A DPI is defined by statutory regulation. You must within 28 days of taking office as a member, notify the Monitoring Officer of any DPI to be included in the Register of Members' Interests. If you fail to register a DPI it is a criminal offence.
21. DPI's also includes your partner's interests. A partner is your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners. You and your partner are referred to in the statutory definition of a DPI as 'relevant person'.

### **22. The categories of DPI are:**

(a) Employment, office, trade, profession or vocation

Any employment, office, trade, profession or vocation carried on by a relevant person for profit or gain.

(b) Sponsorship

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the 12 months prior to the date of giving

notice of interest for inclusion in the register in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(c) Contracts

Any contract which is made between a relevant person (or a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest) and the relevant authority:-

under which goods or services are to be provided or works are to be executed and which has not been fully discharged.

(d) Land

Any beneficial interest in land which is within the Borough.

(e) Licences

Any licence (alone or jointly with others) to occupy land in the borough for a month or longer.

(f) Corporate tenancies

Any tenancy where (to the member's knowledge):-

the landlord is the Council; and

the tenant is a body in which the relevant person is a firm in which they are a partner, or a body corporate in which they are a director or in the securities of which body corporate they have a beneficial interest.

(g) Securities

Any beneficial interest in securities of a body where:-

that body (to the member's knowledge) has a place of business or land in the borough; and

either:-

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

23. **Non DPI's - other interests that the Council has decided should be registered.** You must also within 28 days of taking office as a member, notify the Monitoring Officer of such Non DPI interests that the Council has decided you should be included in the register of Members' Interests. These are:

(a) Membership or position of control or management in:-

Any body to which you have been appointed or nominated by the Council;  
and/or

Any body exercising functions of a public nature (described below) or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party

There is no definitive list of bodies exercising functions of a public nature, but those bodies which:-

- carry out a public service, or
- take the place of local/central government (including through outsourcing); or
- carry out a function under legislation or in pursuit of a statutory power;
- or
- can be judicially reviewed,

are likely to be bodies carrying out functions of a public nature. They include bodies such as government agencies, other councils, health bodies, council owned companies and school governing bodies.

24. You must ensure that your entries in the Register of Members' Interests are kept up to date and must notify the Monitoring Officer of any change to your interests within 28 days of the change arising. For a DPI remember this also includes your partner's interests.

### **Gifts and Hospitality**

25. Any gift or hospitality offered to you (even if declined) with an estimated value of £25 or more must be included in the Register of Gifts & Hospitality kept by the Monitoring Officer within 28 days of the offer being made.

### **Declaration of Interests – DPI's**

26. If you have a DPI in an item of Council business you may not participate in any discussion of, vote on, or discharge any function relating to the matter, unless a dispensation has been granted under Section 33 Localism Act 2011.



27. If you are present at a meeting where you have a DPI in an item of business on the agenda you must:
- (a) Disclose to the meeting the existence and nature of the interest at the start of the meeting and specify the agenda item to which the interest relates. You must also leave the room (including any public viewing area) for the duration of consideration and decision on the agenda item and not seek to influence the debate or decision in respect of the item of business.
  - (b) If the DPI is not already included in your register of interests you must within 28 days of the meeting notify the Monitoring Officer of the interest for inclusion in the register.

N.B. If you fail to disclose a DPI it is a criminal offence.

### **Declaration of Non-DPI's**

28. If you are present at a meeting and have registered a non-DPI in a matter which is to be discussed at the meeting, you must declare the nature of the interest at the earliest opportunity and before the matter is considered. You may stay in the room and participate in consideration of the matter and vote on it unless:
- (a) a reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. If so, you must withdraw and take no part in consideration or discussion of the matter.

### **Declaration of Interests not included in the Register of Members' Interests**

29. Occasions may arise where you have an interest in a matter being considered at a meeting which is not a DPI or Non-DPI that you are required to include in the Register of Members' Interests. An example would be where the decision on the agenda item would affect the wellbeing of you, your family, or a close friend or associate of yours more than it would anyone else living in the local area.
30. In this situation you should consider whether a reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. If so, you must withdraw and take no part in consideration or discussion of the matter.

Note: The provisions of paragraphs 26 - 30 apply not only to meetings but to circumstances where a member makes a decision alone.

### **Sensitive DPI's**

31. You should notify the Monitoring Officer if you feel that a DPI you are required to register should be treated as sensitive. The Monitoring Officer may agree to treat the DPI as sensitive if satisfied that registration/declaration of the DPI could lead to you, or a person connected with you, being subject to violence or intimidation. If the Monitoring Officer agrees the DPI is sensitive you will be obliged to register it but details will not be disclosed in the published version of the register and when attending a meeting you will only need to declare that a DPI exists and will not be required to give details of the interest itself.

### **DPI Dispensations**

32. If you have a DPI in a matter coming before a meeting of the authority, you can make a written request to the Monitoring Officer beforehand for a dispensation, which may allow you to participate in the discussion and vote. A dispensation may be granted in the following circumstances:
- (a) Where members of the decision-making body have disclosable pecuniary interests in a matter that would “impede the transaction of the business”.
  - (b) That without the dispensation, the representation of different political groups on the body conducting the business would be so upset as to alter the outcome of any vote on the matter.
  - (c) That the authority considers that the dispensation is in the interest of persons living in the authority's area.
  - (d) That the authority considers that it is otherwise appropriate to grant a dispensation.
33. Any grant of dispensation must specify how long it will last, up to a maximum of 4 years. Dispensations under (a) and (b) above shall be decided by the Monitoring Officer, those in (c) and (d) shall be decided by the Monitoring Officer in consultation with the Chair of the Standards (Advisory) Committee.

### **Access to Information**

34. You must not disclose confidential information given to you in the course of your duties without the consent of the person entitled to give it unless:-
- there is a legal requirement to disclose the information, or
  - the disclosure is to a third person for the purpose of obtaining professional advice and the third party agrees not to disclose it, or

- the disclosure is reasonable, in the public interest, made in good faith and made in accordance with any reasonable requirements specified by the Council in relation to the disclosure.

35. You must not prevent access to information to which another is entitled by law.

### **Protocols**

36. This Code should be read in conjunction with the following additional Codes and Protocols which have been approved by the Council:

- Planning Code of Conduct
- Licensing Code of Conduct
- Member/Officer Protocol
- Employees' Code of Conduct

### **Complaints**

37. Any alleged breach by a member of the provisions of this Code will be dealt with in accordance with the arrangements set out in Appendix A to the Code.

**NB a breach of any of the statutory requirements relating to the registration and declaration of disclosable pecuniary interests may result in prosecution. If you need of advice about the application of this Code you should contact the Monitoring Officer.**

**LONDON BOROUGH OF TOWER HAMLETS**  
**ARRANGEMENTS FOR DEALING WITH COMPLAINTS OF BREACH OF THE**  
**CODE OF CONDUCT FOR MEMBERS**  
**Arrangements agreed by Council on 5th December 2016.**

**Introduction**

The Council has adopted a Code of Conduct for Members which is available on the Council's website and on request from the Monitoring Officer.

In accordance with section 28 of the Localism Act 2011, these arrangements set out how an allegation may be made that the Mayor, an elected Member or a Co-opted Member of the London Borough of Tower Hamlets has failed to comply with the Council's Code of Conduct for Members and how the Council will deal with such allegations.

These arrangements also require that the Monitoring Officer shall ensure that the Council appoints at least one Independent Person and at least one reserve Independent Person for the purposes of meeting the statutory requirements of the Localism Act 2011.

Any reference in these arrangements to the Monitoring Officer shall include a deputy Monitoring Officer. The timelines set out are for guidance and shall be observed where practicable but may be extended by the Monitoring Officer as necessary if they cannot be complied with by any relevant party due to sickness, holidays or other reasonable cause.

**Complaints**

1. Allegations concerning possible breaches of the Code of Conduct for Members should be made in writing to the Monitoring Officer.
2. On receipt of a complaint the Monitoring Officer shall within five working days acknowledge receipt to the complainant. The Monitoring Officer will also within five working days and on a confidential basis, inform the subject Member of the substance of the complaint and the identity of the complainant (unless the Monitoring Officer considers that such notification would prejudice the proper consideration and investigation of the complaint).
3. Complainants must provide their name and postal address when submitting a complaint. Anonymous complaints will not be considered unless the Monitoring Officer decides (after consultation with the Independent Person) that the complaint raises a serious issue affecting the public interest which is

capable of investigation without the need to ascertain the complainant's identity.

4. A complainant when making an allegation should specify the identity of the person(s) alleged to have breached the Code, the conduct that is alleged to give rise to the breach, the evidence that supports the allegation and the names (and contact details) for any potential witnesses able to give direct evidence of the events complained about.

### **Assessment of Complaints**

5. The Monitoring Officer shall, after consultation with the Independent Person and within ten working days of receiving the complaint:
  - a) Decide whether or not a complaint merits formal investigation and where appropriate arrange for an investigation; OR
  - b) Decide to attempt to facilitate informal resolution of the complaint (such attempt shall be subject to a four week time limit).
6. In making this determination the Monitoring Officer may at their discretion report the matter to the Investigation & Disciplinary Sub-Committee (IDSC) of the Standards (Advisory) Committee for consideration and/or consult other persons as appropriate.
7. The Monitoring Officer may decide not to refer the matter for investigation where:
  - (a) The allegation does not demonstrate any potential breach of the Code (because for example it relates to dissatisfaction with a Council decision/service or relates to events which occurred when the person complained about was not acting in an official capacity).
  - (b) The event(s) complained about took place more than six months ago and there are no valid reasons for the delay in bringing the complaint, such as fresh evidence not available at the earlier date or only recently discovered.
  - (c) The allegation is about someone who is no longer the Mayor or a Member/Coopted Member.
  - (d) The complainant has failed to provide the information specified in paragraph 4 above or any other information reasonably requested by the Monitoring Officer.
  - (e) The same or a similar allegation has been investigated and determined.
  - (f) The Mayor, Member or Co-opted Member has already accepted they made an error in their conduct and/or has apologised for their conduct and the Monitoring Officer considers the matter would not warrant a more serious sanction.
  - (g) The allegation is politically motivated and/or 'tit for tat'.

- (h) The allegation is not considered sufficiently serious to merit the cost to the public of carrying out an investigation.
  - (i) The Monitoring Officer has facilitated an informal resolution of the complaint (see below) and the Mayor or Member/Co-opted Member complained about has offered to take remedial action that the Monitoring Officer considers appropriate in all the circumstances (for example by apologising to the complainant and/or undertaking training or issuing a statement of factual correction).
8. Where the Monitoring Officer decides to reject a complaint they shall inform the complainant in writing giving the reasons for rejection.

### **Investigation and Monitoring of Complaints**

9. If a complaint of failure to comply with the Code is referred for investigation the Monitoring Officer shall appoint an investigator or complete the investigation him/herself. Such investigation should whenever possible be completed within two months of the decision to refer the matter for investigation. The Monitoring Officer may extend this period by up to a further two months where they feels it is necessary to ensure a proper and adequate investigation. The Monitoring officer may refer a complaint for investigation by the Monitoring Officer in a different authority where they have a conflict of interest.
10. The Monitoring Officer will keep the complainant and the subject Member informed as to progress at appropriate intervals and shall inform them of any extension to the period for the investigation.
11. The Monitoring Officer will report quarterly (or less frequently if there are no complaints to report) to the Standards (Advisory) Committee on the number and nature of complaints received and action taken as a result. This will include details of complaints that have been rejected by the Monitoring Officer and any extension made to the period for an investigation of a complaint.
12. Where any investigation into a complaint of breach of the Code finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer shall within four weeks of receipt of the investigation report, consult with the Independent Person and decide whether the matter should be closed without reference to a Hearings Sub-Committee. The Monitoring Officer shall provide a copy of the report and findings of the investigation which shall be kept confidential to the complainant and to the Member concerned and shall report the matter as part of the quarterly report to the Standards (Advisory) Committee for information. The Monitoring Officer may also seek advice from the IDSC before deciding that a matter should be closed without reference to the Hearings Sub-Committee.

13. Where an investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer following consultation with the Independent Person, may seek local resolution of the complaint. If local resolution succeeds the Monitoring Officer shall report the matter as part of the quarterly report to the Standards (Advisory) Committee. If local resolution does not succeed or if following consultation with the Independent Person, the Monitoring Officer considers that it is not appropriate to seek local resolution, the Monitoring Officer shall report the investigation findings to a Hearings Sub-Committee of the Standards (Advisory) Committee for local hearing and determination. The Hearings Sub-Committee will whenever practicable be convened within one month of the Monitoring Officer receiving the investigation report.

### **Hearings Sub-Committee**

14. The Hearings Sub-Committee will consider the investigation report and any submissions from the subject Member and determine:
- (a) If there has been a breach of the Code of Conduct having taken into account the views of the Independent Person; and if so
  - (b) Whether any sanction is appropriate having taken into account the views of the Independent Person.
15. Possible sanctions may include any of the following:-
- (a) Publication of the Sub-Committee's decision.
  - (b) Reporting the Sub-Committee's decision to Council.
  - (c) Requesting the Monitoring Officer to arrange training for the Member (subject to the Member's agreement).
  - (d) Issuing a censure or reprimand which may also be reported to Council.
  - (e) Requiring the Member to contact the Council and officers via specified point(s) of contact.
  - (f) Withdrawing facilities provided to the Member by the Council, such as a computer or internet access.
  - (g) Excluding the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Executive, Committee and Sub-Committee meetings (as appropriate).
  - (h) Recommending to the Member's Group Leader that they be removed from any or all Committees or Sub-Committees of the Council.
  - (i) Recommending to the Mayor that the Member be removed from the Executive, or removed from particular portfolio responsibilities.
  - (j) Recommending to Council or the Mayor as appropriate the removal from outside appointments to which the Member has been appointed or nominated.

(k) Recommending to Council that the Member be removed from any or all Council Committees or Sub-Committees.

16. In determining any recommended sanction the Hearings Sub-Committee may take into account any previous breach by the Member concerned and/or their compliance with any previous sanction applied.



## LONDON BOROUGH OF TOWER HAMLETS BULLYING AND HARASSMENT POLICY

### **Introduction:**

Everybody has a right to be treated with dignity and respect, and to live and work in an environment which is free from bullying, harassment, discrimination and victimisation.

Bullying, harassment, discrimination and victimisation (either directly or indirectly) are unacceptable behaviours and should not be tolerated. As an elected member, it is important to recognise the impact such behaviour can have on any individual experiencing it, as well as on the London Borough of Tower Hamlets as a public body, in terms of morale and operational effectiveness.

You are responsible for your own behaviour and must ensure that you are aware of and comply with the provisions concerning bullying and harassment in this Code of Conduct for Members and Member/Officer Relations Protocol of the Constitution.

### Definition

Bullying includes offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

### Examples of harassment:

- Unwelcome physical contact such as touching or invading personal space;
- Inappropriate remarks about someone's appearance, lewd comments, offensive jokes (including ones of a racial or sexual nature);
- Intrusive questioning about a person's sexual practices, sexual orientation or religious beliefs; and
- Sending unwelcome emails, messages or notes.

### Examples of bullying:

- Deliberately making someone's work life difficult, such as humiliating or ridiculing other members or officers about their work, constantly criticising the work of other members or spreading malicious rumours and gossip;
- Intimidating behaviour, including verbal abuse and making threats;
- Making false accusations about others;
- Physical violence; and

- Deliberately excluding someone from conversations, work or social activities, in which they have a right or legitimate expectation to participate.

### **Your responsibilities as a member:**

- Behave in accordance with the Code of Conduct for Members in all situations where you act as a councillor, including representing London Borough of Tower Hamlets and/or your work on official business and when using social media.
- Ensure that you are familiar and comply with the terms of any policy the London Borough of Tower Hamlets has issued on bullying and harassment.
- Treat all individuals with courtesy and respect when carrying out duties as a member. Do not participate in or condone acts of harassment, discrimination, victimisation or bullying.
- Be aware of the influence the role of a member brings to ensure that you demonstrate respect for others and encourage colleagues to do the same.
- Be aware of the role officers play and ensure you are not compromising this by behaving in a manner that could make them feel threatened or intimidated, which could prevent them from undertaking duties properly and appropriately. You must not bring undue influence to bear on an officer to take certain action, particularly if it is contrary to the law or the council's policies or procedures.
- Become aware of what is meant by bullying or harassment in the event you are made aware through your position of victims to this kind of behaviour.
- Encourage complainants to seek support and assistance and make it clear you will assist in offering assistance.
- Challenge inappropriate behaviour as it happens and consider making a complaint.

### **Hypothetical Scenarios**

These examples are a list of examples demonstrating behaviour which as a member, you should prevent either in yourself or others:

- Member A disagrees with the council procedure for enforcing parking breaches. They use disrespectful and abusive language towards THEOs in the borough and seek to use position as member improperly in relation to parking offences they commit.

- Member B makes threatening comments suggesting loss of employment or promotion and/or physical violence to officers of the council at both junior and senior grades if they do not take action on certain incidents occurring in their ward.
- Member C disagrees with a decision passed at full council and makes disrespectful comments about members involved in the motion on their personal blog and through tweets.

## 32 Member / Officer Relations' Protocol

### CONTENTS

Section	Subject
1	Introduction
2	Roles of Councillors and Officers
3	The Relationship between Councillors and Officers
4	Councillor to Councillor Expectations
5	Councillors and Legal Action by or against the Council
6	Reports
7	Officer Advice to Party Groups
8	Members' Services and the Use of Council Facilities
9	Political Assistants
10	Councillors' Access to Information
11	When things go wrong
12	Review

#### 1. INTRODUCTION

- 1.1 Councillors and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. Councillors provide a democratic mandate to the Council, whereas officers contribute the professional expertise needed to deliver the policy framework agreed by Councillors.
- 1.2 The protocol is part of the Council's ethical framework and should be read in conjunction with the Council's Constitution, the Code of Conduct for Members, disciplinary codes which regulate the conduct of officers and other relevant codes and guidance.
- 1.3 This Protocol seeks to define what should be considered a proper working relationship between Councillors and officers in Tower Hamlets and to provide a framework within which confidence in the machinery of local government can be maintained. It contains interpretation and guidance on some of the issues which commonly arise. It cannot cover every matter which will arise in council life but it reflects an approach and sets standards which will serve as a guide to dealing with other issues. It is intended to guide Councillors and

officers and explain what they can expect of each other. It also explains what to do when things go wrong.

- 1.4 This protocol also applies to co-opted members of committees and also to consultants and agency staff working for the Council, to whom a copy will be supplied. With regard to associates from partnership organisations, where their organisation has no code of conduct, it is expected they will abide by the principles of Tower Hamlet's code and this protocol.
- 1.5 Councillors appointed to outside bodies or partnership organisations as representatives of Tower Hamlets Council need to be aware that the Code of Conduct for Members applies to these appointments. However, Councillors are advised to be aware that other conduct arrangements of the outside body are likely to exist. In those circumstances, Councillors should comply with both sets of conduct arrangements, unless the Code of Conduct for Members conflicts with the lawful obligations of the outside body.
- 1.6 A failure to abide by this Protocol by Councillors is likely to be a breach of the Code of Conduct for Members and may result in a complaint being made to the Monitoring Officer. As to officers, a failure to abide by this Protocol may result in a disciplinary investigation.
- 1.7 Any reference to 'Councillor' or 'Councillors' in this Protocol, or any appendices or related Codes/ Protocols, means the Mayor, elected and co-opted members. This Code applies at all times when Councillors act in their capacity as Councillors (or claim to act or give the impression of acting in their capacity as a Councillor).
- 1.8 'Officers' and 'staff' mean all persons employed by the Council: whether full or part time; fixed term contract; agency; or consultant.
- 1.9 A Councillor in need of advice about the application of this Protocol should contact the Monitoring Officer, whereas an officer in need of advice about the application of this Protocol should contact their line manager in the first instance.

## **2. ROLES OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation but their responsibilities are distinct.

Councillors

- 2.2 Councillors are democratically accountable to residents of their Wards and serve only so long as their term of office lasts. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 2.3 All Councillors have responsibilities to determine the policy of the Council, monitor its performance, represent the Council externally and act as advocates on behalf of their constituents.

#### Officers

- 2.4 Officers are employed by and are accountable to the Council as a whole. With the exception of Political Assistants and the Mayor's Assistant, officers work to the instructions of their senior officers, not individual Councillors or Political Groups.
- 2.5 Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 2.6 Officers have a duty to keep Councillors of all political groups fully informed about developments of significance in relation to council activities.

### **3. THE RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 3.1 Bad relations between Councillors and officers are counter-productive to good governance and therefore the conduct of Councillors and officers should be such as to instil mutual trust and respect. Councillors and officers should understand and respect each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

#### Obtaining or granting favours

- 3.2 The Code of Conduct for Members emphasises the need for Councillors to avoid behaviour which could be viewed as conferring an advantage or disadvantage on an officer. Councillors must not seek personal favours from officers. Officers must not be tempted to give favours to please a Councillor. An example of favour seeking would be asking whether a Councillor's parking ticket could be withdrawn or whether an application for a service could be expedited. Similarly officers must not seek to circumvent agreed staff consultative procedures by lobbying Councillors on matters which directly concern them as employees

#### Councillor involvement in officer issues

- 3.3 Issues relating to the appointment, management and dismissal of most officers are reserved by law to the Head of Paid Service and officers appointed by him/her. Councillor involvement in employment issues generally, including where they relate to senior officers, is set out in the Local Authorities (Standing Orders) (England) Regulations 2001.
- 3.4 Occasions may arise where officers try to involve Councillors in day-to-day staff/ management issues. Councillors should strongly discourage such approaches. Officers should be advised to pursue matters with their management through the established procedures for resolving grievances etc. Officers must not raise matters concerning their employment with individual Councillors; to do so may result in disciplinary action being taken.

#### Personal Familiarity

- 3.5 Personal familiarity between Councillors and officers can create the suspicion of improper conduct, however unfounded and can undermine public confidence in the Council. Whilst it is clearly important that there should be a close working relationship between when officers and Cabinet members or chairs of Committees, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question, the officer's ability to deal impartially with other Councillors and other party groups.
- 3.6 Informal and collaborative two-way contact between Councillors and officers is encouraged; personal familiarity can damage the relationship, as might a family or business connection. It is accepted that some close relationships will develop, particularly when Councillors and officers work closely together but it is important that close relationships between Councillors and officers are openly declared and if any relationship might be seen as unduly influencing their work in their respective roles then they should inform the Monitoring Officer.
- 3.7 It is not enough to avoid actual impropriety, Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

#### Courtesy

- 3.8 Councillors and officers should respect each other's non-working time.

- 3.9 Councillors and officers should be courteous to each other at all times even if they disagree strongly with their respective views. Councillors and officers should not shout or raise their voice in an aggressive or rude manner.

#### Bullying

- 3.10 Councillors and officers must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person whom the Councillor or officer has some actual or perceived influence over. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.
- 3.11 Bad relations between Councillors and officers can be destructive to good governance. Councillors may from time to time become frustrated by what they regard as unacceptable or incompetent officer behaviour. It is self-evident that sometimes these feelings may be entirely justified although occasionally there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
- 3.12 Where a Councillor has a concern about an officer or the Council services then this should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/ probity, corruption or malpractice of any sort is involved within the Council. Councillors should not criticise officers in public as Councillors should bear in mind that officers are instructed not to “answer back” in public. Attacking an officer’s conduct in public can constitute bullying, as will undue pressure brought by either officers or Councillors in private.

#### Lines of conduct between Councillors and officers

- 3.13 Councillors must remember that Officers within Directorates are accountable to their chief officer. Chief officers, through their senior management, are responsible for the allocation and prioritising of work by their staff. Councillors should not seek to influence such decisions.
- 3.14 A Councillor is free to approach any Council Department to provide them with such information, explanation and advice about the Department’s functions as they may reasonably need as a Councillor. This can range from a request for general information or documentation about some aspect of the Department’s activities, to a request for specific information on behalf of a constituent.



- 3.15 In making such an approach, the request should be made to the Chief Officer or Divisional Director for the Department concerned. If access is denied or the Chief Officer/ Divisional Director is in doubt, the matter must be referred to the Monitoring Officer for determination.
- 3.16 Councillors should raise constituents' queries or concerns through the proper channels and not go direct to junior officers. Further in seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue, but should respect the Council's procedures. Officers have many pressures on their time and officers may very well not be able to carry out the work required by Councillors in the requested timescale. Councillors should respect this. The Council does operate a Member's Enquiries system (see section 8.1 for more details).
- 3.17 Where Councillors and officers share an office building particular care needs to be taken to maintain appropriate lines of contact. Councillors and officers are reminded that within an open plan environment office certain standards are expected to be maintained. In particular meetings should not be held at workstations, Councillors and officers should use the meeting facilities provided and sensitive or confidential issues should not be discussed in the open plan environment.
- 3.18 Officers within a Directorate are accountable to their Corporate Director and whilst officers should always seek to assist a Councillor, they must not go beyond the bounds of whatever authority they have been given by their Corporate Director.

#### **4. COUNCILLOR TO COUNCILLOR EXPECTATIONS**

- 4.1 Whilst this Protocol is primarily aimed at the interaction between Councillors and Officers, the same principles apply to interactions between Councillors. Therefore Councillors should be entitled to expect from each other:
- respect, dignity and courtesy;
  - not to be subjected to bullying or personalised attacks;
  - respect for differing political views and values;
  - maintenance of confidentiality;
  - commitment to high standards of debate; and
  - compliance with the Council's Constitution including the Code of Conduct for Members.

#### **5. COUNCILLORS AND LEGAL ACTION BY OR AGAINST THE COUNCIL**

- 5.1 There is a whole range of circumstances where the Council as a corporate body may be involved in legal proceedings. This could be against residents

or other individuals, organisations and companies, and across the whole range of service areas including housing, planning, highways, etc. Councillors have a clear role in representing residents' and general public interests. In this representative capacity, Councillors will inevitably become involved in issues where the Council is considering, or is in the process of taking legal action, or where the Council is the defendant to legal actions brought by third parties.

- 5.2 Conflicts of interest will almost certainly occur when a Councillor is enquiring on behalf of an individual or body involved in legal action by or against the Council. In such cases, Councillors will be required to balance their representative role with their wider responsibilities in representing the corporate interests of the authority. For this reason, Councillors must be circumspect in any dealing with persons taking action against the Council, or against whom any legal action is being taken. Particularly, Councillors must be extremely cautious about having any dealings with professional representatives, advisers or witnesses in the case. Not only could such intervention prejudice the Council's position but the Councillor could find himself/ herself accused of an offence of Misconduct of Public Office or, Perverting the Course of Justice or an attempt or conspiracy to do so.
- 5.3 It is therefore particularly important that Councillors should be sure not only to avoid any actual impropriety, but at all times avoid any occasion for suspicion or any appearance of improper conduct.
- 5.4 In that regard, Councillors must not:
- attempt in any way to exercise improper influence over the legal process in which the Council is involved;
  - attempt to exert improper influence on Council officers involved in the legal process or witnesses in the case;
  - attempt to engage the community to exert improper influence on Council officers involved in the legal process or witnesses in the case.
- 5.5 Whilst Councillors have every right to information on how any such matter is being dealt with and a duty to represent their constituents, Councillors must also realise that the response on behalf of the Council must be limited to comments on process, so as not to prejudice the proceedings.
- 5.6 In respect of any ongoing or contemplated proceedings, all enquiries must be addressed to either the appropriate Divisional Director or Corporate Director. On no account is the Councillor to contact any officers involved in the proceedings to discuss or make any enquiries regarding the proceedings.

5.7 If a Councillor believes that the Council's actions or intentions are wrong, they should inform the Corporate Director concerned. It must then be for the Corporate Director to determine what action to take. If the Councillor remains unhappy with the action taken, then they should refer the matter to the Council's Monitoring Officer or to the Chief Executive.

## **6. REPORTS**

6.1 Officers' reports should contain clear, evidence-based advice as to why a course of action is being recommended. From time to time corporate advice is given to officers on report writing and they should take care to follow it. The report should lay out all relevant factors for the decision maker, and examine all alternatives in an even handed way. Officers should take care to include even unpopular options if they feel they are relevant.

6.2 The relevant Corporate Director will always be fully responsible (and retains ultimate responsibility) for the contents of any report submitted in their name. Any issues arising between a Councillor and a Corporate Director in this area should be referred to the Monitoring Officer or Chief Executive for resolution.

6.3 Councillors have the right to criticise reports or the actions taken by officers, but they should always:-

- seek to avoid personal attacks on officers; and
- ensure that criticism is constructive and well-founded.

6.4 Councillors have the ability to agree or reject proposals placed before them by officers, irrespective of the advice or recommendations made by officers so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:-

- take into account relevant and dismiss irrelevant matters; and
  - do not come to a conclusion that no reasonable authority would come to.
- Officers must therefore, be able to report to Councillors as they see fit and without any political pressure.

6.5 A resolution may be passed at meetings which authorises an officer to take action between meetings after consultation with the Chair/ Lead Member/ Portfolio Member etc. It is the officer, not the Chair etc., who takes the action and is responsible for it. The Chair etc. does not himself/ herself have the power between meetings to make decisions.

## **7. OFFICER ADVICE TO PARTY GROUPS**

- 7.1 It must be recognised by all officers and Councillors that in discharging their duties and responsibilities officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Councillor. Special rules apply to Political Group Assistants and the Mayor's Assistant and those post holders are made aware of them through separate guidance.
- 7.2 There is statutory recognition for party political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Councillors treat them in a fair and even-handed manner.
- 7.3 The support provided by officers can take many forms, ranging from a briefing meeting with the Mayor, a Cabinet Member/ Chair/ Spokesperson prior to a Council, Cabinet, Committee or Sub-Committee meeting to a presentation to a political group meeting. Whilst in practice such officer support is likely to be in most demand from whichever political group is in control of the Council at the time, such assistance is available to all political groups.
- 7.4 Certain points, however, must be clearly understood by all those participating in this process, Councillors and Officer alike. In particular:
- (i) Requests for officers to attend any political group meeting must be made only to the appropriate member of the Corporate Leadership Team. Normally only that person will attend the meeting, although in exceptional circumstances they may be accompanied by one or more Senior Officers.
  - (ii) Unless otherwise agreed in advance with the Chief Executive, officers will not attend political group meetings that include persons who are not Councillors. However, where the Chief Executive has authorised such attendance special care needs to be exercised by officers involved in providing information and advice to such political group meetings. Persons who are not elected Councillors will not be bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Councillors only meeting.
  - (iii) Officer support (whether in the form of a written report or otherwise) must not extend beyond providing information and advice in relation to matters

of Council business. Officer support will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports or other support will not deal with any political implications of the matter or any option, and officers will not make any recommendations to a political group. Officers (with the exception of Political Group/ Mayor's Assistants) are not expected to be present at meetings or part of meetings when matters of party business are to be discussed.

- (iv) Political group meetings, whilst they form part of the preliminaries to Council decision making are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- (v) It must not be assumed by any political group or Councillor that any Officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- (vi) Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group or Councillor thereof. However, Councillors should be aware that this would not prevent officers from disclosing such information to other officers of the Council so far as is necessary to perform their duties.
- (vii) Where officers provide information and advice to a political group meeting in relation to a matter of Council business, it should be understood that the officers have a statutory duty to provide all necessary information and advice to the Mayor or Cabinet or relevant Committee/ Sub-Committee when the matter in question is considered.

## **8. MEMBERS' SERVICES AND THE USE OF COUNCIL FACILITIES**

### Members' Services and Members' Enquiries

- 8.1 The Council operates a Member's Enquiries system which is for the Mayor and Councillors to use for routine requests for information and advice. The maximum turn round time expected for such enquiries is 10 working days and officers will chase outstanding enquiries exceeding this period. Matters which are not routine or involve policy should be directed initially to the relevant Corporate Director or Divisional Director or any officer nominated by them.
- 8.2 Both Mayor's Office secretarial staff and the Councillors' Support Team provide assistance to Councillors in their role as Council Members. Staff in these sections may, therefore, be used, as appropriate, to help with work such as casework, meetings and correspondence to do with Council matters. Full details of the service offered are contained in the Members' Services Guide.

8.3 The Mayor's Office and Councillor Support Team staff will assist with booking venues for, and publishing details of, Councillor's surgeries. Councillors' surgeries should normally be held within a Councillor's own ward, but a Councillor may arrange a surgery in premises outside their ward if this is necessary to provide suitable surgery facilities for their own constituents. Councillors must not ask Council officers to assist with any personal, business or party political matters; attend surgeries; or decide how case work will be dealt with.

#### Council Facilities

8.4 Councillors must use any Council facilities that are provided in their role as a Councillor strictly for that purpose and no other. For example, Councillors must not use rooms in the Town Hall or other buildings or any of the Council's paper, computers, photocopiers, or printers for any personal, business related or party political matter, nor, for example, on behalf of any community groups of which the Councillor is a member, unless formal approval has been given by the appropriate chief officer.

8.5 The use of Council facilities and services by Councillors during a pre-election period for election campaigning or political purposes is not allowed. Specific guidance will be issued at that time to both Councillors and officers.

8.6 The Council can only provide legal representation to an individual Councillor where the action is taking place in the name of the Council and the individual deserves the protection of the Council. All such matters should be raised with the Chief Executive in the first instance.

#### Political Party Workers

8.7 Councillors are often assisted by political party workers. There is no objection to this, but no non-elected party worker has any entitlement to:

- information to which a Councillor has access in their role as Mayor or Councillor;
- use Council facilities provided for the use of Councillors.

The principles which apply to use of facilities provided for Councillors (and the officers employed to assist them) apply equally to all Council property and facilities and all Council employees.

#### Use of IT

8.8 From time to time training and guidelines on the proper and effective use of Council IT resources will be issued.

## **9. POLITICAL ASSISTANTS**

- 9.1 Section 9 of the Local Government and Housing Act, 1989 gives councils a power to appoint political assistants to qualifying political groups. Whilst the Act allows the political affiliation of an individual to be taken into account in the appointment of any Political or Mayor's Assistant, they remain officers of the Council and must therefore not undertake any activity, which may be deemed unlawful. In this context, it should be realised that officer support to the political groups is in the context of their role in the discharge of Council business and although it may require liaison with political parties, at both local and national level, should not be used in promoting the views of an individual political party or undertaking campaigning or other party political business.
- 9.2 Political assistants hold politically restricted posts and therefore also face restrictions on their personal political activity.

## **10. COUNCILLORS' ACCESS TO INFORMATION**

### General

- 10.1 The following paragraphs identify the rights of Councillors and the procedures that they must comply with when applying for access to Cabinet/ Committee/ Sub-Committee papers and other documents/ information. These paragraphs take into account the following:
- Relevant legislation including the Local Government Act 1972; the Data Protection Act 1998; the Freedom of Information Act 2000; and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (SI 2012/2089)
  - Local Government Transparency Code 2015
  - Open and accountable local government: plain English guide
  - Access to Information Procedure Rules (Part B Section 27 of the Constitution)
  - Relevant case law
- 10.2 In principle, Councillors have the same ordinary rights of access to certain information as is enjoyed by the general public but they also have the right to access any other information (i.e. confidential or exempt) held by the Council of which they are a Councillor provided that it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor (see "Need to Know" below). This right of access of additional access may not extend to the publication of or otherwise making public such information as there may be issues of confidentiality.

## Access to Committee Papers for Forthcoming Meetings

10.3 The rights of Councillors can be summarised as follows:-

- (i) Councillors enjoy the same access rights as members of the public in respect of Part I Cabinet/Committee/Sub-Committee papers.
- (ii) Councillors of the appropriate Cabinet/ Committee/ Sub-Committee will have a good reason for access to all Part II exempt information on the respective Cabinet/ Committee/ Sub-Committee agenda under the “Need to Know” principles (see below).
- (iii) Councillors of the Overview and Scrutiny Committee will have a prima facie “Need to Know” where they require access to Part II Cabinet agenda items as part of their scrutiny function provided the subject matter is within the Committee/ Sub-Committee’s terms of reference.
- (iv) All other Members who require access to confidential/ exempt Cabinet/ Committee/ Sub-Committee documentation will need to request disclosure under the Freedom of Information Act 2000 or demonstrate a “Need to Know” by complying with the principles set out below.

## Access to Other Documents/Information – “The Need to Know”

- 10.4 It is important to note that in some cases access to information to which the public is not entitled only applies where Councillors are clearly carrying out their role as elected representatives. Where a Councillor has a financial or personal interest in a matter the Councillor will only be entitled to the same access as would be the case for a private individual. In these circumstances, the Councillor must make it clear that they are acting in their private capacity and not as a Councillor.
- 10.5 Under common law principles Councillors have the right to access information held by the Council where it is reasonably necessary to enable the Councillor to properly perform their duties as a Councillor. This is known as the “Need to Know”. This means that information must not be used for party political purposes.
- 10.6 The common law “Need to Know” is the prima facie right of Councillors to inspect documents of the authority which exist as Councillors are under a duty to keep themselves informed of Council business which relate to their role as elected representatives. Thus, this right applies to Councillors who do not have statutory rights to exempt or confidential information and to other documents held by the Council under local government legislation or the Freedom of Information Act 2000.
- 10.7 For example, a Councillor is likely to have a prima facie “Need to Know” where they has a legitimate Ward problem and needs access to the



documents that are relevant to that specific problem. Also, for example, a Cabinet Member whose Portfolio covers the matter in question and they need to be aware of what is occurring for the purpose of their Cabinet position.

- 10.8 Access to information on the basis of a 'Need to Know' does not exist where the Councillor is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.
- 10.9 It should be noted that some material (for example if commercial sensitive) may be redacted from information that is disclosed, if this does not affect the ability of a Councillor to exercise their role as an elected representative.
- 10.10 There will also be a range of documents which, because of their nature are either not accessible by Councillors (such as the personal records of an individual) or are accessible only by the political group forming the administration and not by the Councillors of other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Committee reports, the premature disclosure of which might be against the Council's and the public interest.
- 10.11 Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Councillor of one political group will not have a "Need to Know" and therefore, a right to inspect, a document which forms part of the internal workings of another political group.

#### Use of Council Information – Confidentiality

- 10.12 Procedural Rules and specific local procedures (e.g. on contracts) require Councillors and officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected representative in the course of the Councillor's Council business and dealing with the same person as a client or customer, e.g. a Housing Benefit claimant. In the latter case, Officers will treat the Councillor with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, and interpret the relevant rules and procedures as they would for any other client or customer.
- 10.13 Equally, any Council information provided to a Councillor on the basis of a 'Need to Know' must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the

Councillor's duties as an elected representative of the Council. Confidential or exempt information provided to Councillors may be discussed in Part II Committee meetings or in private meetings of appropriate Councillors and Officers. However, it should not be discussed with, or released to, any other persons. Any information that is provided should be clearly marked as confidential before it is released to Councillors.

- 10.14 In cases where a Councillor discloses information given to him/her in confidence by anyone, or information acquired by the Councillor which they believe, or ought reasonably to be aware, is of a confidential nature then that Councillor may find themselves the subject of a complaint to the Standards Advisory Committee that they have contravened the Code of Conduct for Members.
- 10.15 Similarly, the unauthorised disclosure of confidential or exempt information is regarded by the authority as a serious disciplinary offence for Officers. This includes an unauthorised disclosure to a Councillor.
- 10.16 Any request from a Councillor for information will be treated in confidence by Officers and will not be made known to any other Councillor or political group. Officers are also under a duty not to relate any information disclosed privately by a Councillor(s) (e.g. during Part II discussions at Committee, etc., informal briefings, private conversations or Group meetings) to another Councillor, Officer or person not already privy to that information.
- 10.17 The duty of officers to observe a Councillor's confidence however will not apply if the information disclosed relates to something which could severely damage the Council or which is illegal or constitutes maladministration. In this event the matter will be referred to the appropriate Corporate Director and/or Monitoring Officer and Chief Executive for further investigation and action as appropriate.

## 11. WHEN THINGS GO WRONG

### Procedure for officers

- 11.1 If an officer has a complaint about a Councillor it is always preferable to resolve matters informally, through an appropriate senior manager. If the matter cannot be resolved informally or it is not suitable for such then officers can make a complaint to the Monitoring Officer.

### Procedure for Councillors

- 10.2 If a Councillor has a concern about the conduct or capability of an officer, they should raise the matter privately with the appropriate Divisional Director or

Corporate Director. Any concern about a Corporate Director should be raised privately with the Chief Executive. Any concern about the Chief Executive should be raised privately with the Monitoring Officer.

11. REVIEW

- 11.1 The Standards Advisory Committee and the Monitoring Officer will jointly keep this Protocol under review and make recommendations for changes as appropriate. A review will take place annually in any event.

## 33 Employee Code of Conduct

### INTRODUCTION

1. This code aims to guide all employees on their conduct inside work and outside work where this has a bearing on their position within the Council. It is the responsibility of all Council employees to read this Code and work in accordance with it. If you are unsure about any aspect, check it with your line manager or Human Resources.
2. As an employee you should read this Code in conjunction with other relevant parts of the Constitution, Council policies and procedures relevant to your work and more detailed operational guidelines for example in areas such as computer use, The Code, in setting out our values, rules and principles, should not be interpreted as a complete list of what you can and cannot do, but rather to enable you as an employee to understand the ground-rules that all must observe, and the differences in the roles and duties of Members (the Mayor and Councillors) and employees.
3. Any breach of this Code may lead to disciplinary action and may in some instances constitute gross misconduct.

### GENERAL CONDUCT

4. The public is entitled to demand the highest standards of conduct from all local government employees.
5. The Council is extremely conscious that public confidence can be damaged where the integrity of a Council employee is called into question and they are suspected of being influenced by improper motives.
6. Paragraphs 2.1 and 2.2 of the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of the Service states:
  - “Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained
  - Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers.”

The Council believes:

- (a) The public is entitled to demand of a Local Government Officer conduct of the highest standard and public confidence in their integrity would be shaken were the least suspicion to arise that they could in any way be influenced by improper motives.

- (b) An Officer's off-duty hours are their personal concern but they should not subordinate their duty to their private interests or put themselves in a position where their duty to their private interests conflict. The employing Authority should not attempt to preclude Officers from undertaking additional employment, but any such employment must not, in the view of the Authority conflict with or react detrimentally to the Authority's confidence in the conduct of the Authority's business.
- (c) The Officer should not be called upon to advise any political group of the employing Authority either as to the work of the group or as to the work of the Authority, neither shall they be required to attend any meeting of any political group.

### **WORKING RELATIONSHIPS, EQUALITIES AND THE CUSTOMER PROMISE**

7. The Council expects all employees to deal with one another, the public, clients and elected Members in a courteous and civil manner. This may be in the exercise of their duties but can cover other circumstances, e.g. when in the role of Trade Union Representative. Employees should promote equality by not discriminating unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability.
8. It is important that there is clarity about the respective roles of elected Members and employees and that the relationship between the two is clearly understood by everyone concerned. To achieve this the Council has adopted the Member/Officer Protocol which applies to all Members (the Mayor and Councillors) and employees and should be read in conjunction with this document.
9. You must always remember your responsibilities to the community that you serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council. All employees are required to be familiar with and implement the Council's policies, particularly those relating to Equalities and the Customer Promise and to ensure that the principles within those policies and other policies are followed.
10. The Council expects relationships between work colleagues (including those between managers and team members) to be supportive, co-operative and respectful. Employees should behave in a way that enhances the performance and well-being of others and the effectiveness of Council services. Employees should not have managerial responsibility for those with whom they have close private relationships (e.g. partners and family). If such

a relationship arises, during the course of your employment, it must be declared to your divisional director or chief officer.

11. Other organisations and agencies support, assist and partner the Council in the provision of services. Employees must work within the terms of the contracts/agreements made between contractors/suppliers/partners and the Authority.

### **DUTY TO DECLARE INTERESTS**

12. You are responsible for declaring interests which conflict with the impartial performance of your duties or put you under suspicion of improper behaviour. These interests may be financial or personal/social interests (e.g. interests of family and friends, commercial or voluntary associations). The interest may be advantageous or have a detrimental effect on you (an example of a detrimental interest may be a situation where you experience threats or pressure from family or friends to act in a particular way in your official capacity).
13. You must declare in writing to your divisional director any financial or personal/ social interests that you consider could bring about conflict with the Council's business or interests. You are reminded in particular that you must comply with Section 117 of the Local Government Act 1972 regarding the disclosure of pecuniary interests in contracts relating to the Council. Orders and contracts must be awarded on merit and no special favour should be shown to businesses in which you have a financial interest or which are run by, for example, friends, partners or relatives. If you have such an interest you must not be involved in any way in the negotiation of agreements or the letting of contracts with these contractors/firms.
14. Interests, relationships and associations must also be declared when dealing with recruitment, management responsibilities, the allocation of resources and services, the provision of services and access to confidential information. Interests, friendships and associations, which could conflict with your professional roles and responsibilities, must also be declared to your divisional director.
15. Each directorate maintains a confidential register of declarations which must be in writing, giving information about the nature of the interest and the names of the parties and the functions involved. Chief officers and divisional directors are also required to complete returns to be included in a confidential register maintained by Human Resources. These records may be accessed, on application to the monitoring officer, during the process of an investigation if the conduct of an employee is brought into question.

## **THE COUNCIL'S BUSINESS INTERESTS**

16. All employees are bound by a duty of fidelity not to breach confidence and not to participate in competing activities. The Council has the right to take necessary and reasonable steps to protect its legitimate business interests.
17. The Council can legitimately seek to restrict the work activity of certain ex-employees (for a specified period of time after the end of their employment and within a specified geographical area) where the individuals could use contacts and information derived from the Council to compete with the Council for work. These restrictions would take the form of a loyalty clause (or restrictive covenant) within the employee's contract of employment.
18. The Council retains intellectual property rights for work undertaken by employees. Research, reports, designs, drawings, software developments or similar work, when created in the course of an employee's normal duties, remain the property of the Council. These should not be removed from Council premises or passed on to a third party by any employee acting in a private capacity without the express consent of the Council.

## **GIFTS AND HOSPITALITY**

19. The acceptance of gifts and hospitality, even on a modest scale, may arouse suspicion and must be capable of public justification. A register of gifts and hospitality is therefore kept for each of the Council's directorates containing the following information:
  - The name of the person or body making an offer of a gift or hospitality.
  - The name of the employee to whom the offer was made.
  - The gift or hospitality offered.
  - The circumstances in which the offer was made.
  - The action taken by the member of staff concerned.
  - The action taken (if any) by the divisional director or chief officer.
20. Where it is in the Council's interests to offer hospitality to organisations on Council premises such arrangements must only be made with the express permission of the divisional director or chief officer and be on a scale appropriate to the occasion.
21. You are strongly advised to refuse or return any gifts, hospitality or other favours from persons inside or outside the Council as any such acceptance

could well put you in a compromising position and could render you liable to accusations by other parties who become aware of this. You should bear in mind how the acceptance of a gift or a free meal would look to a third party and how this could appear to compromise your professional judgement even if it is accepted in all innocence. When declining a gift or hospitality you should courteously but firmly inform those making the offer of the procedures and standards operating within the Council.

22. Under no circumstances should you ask for a reward, tip, gift, "Christmas box" or any other inducement. You should also not put yourself in debt to someone where this would be likely to influence your work.
23. It is a serious criminal offence for employees of the Council to corruptly receive or give any gift, loan, fee, reward or advantage in order to influence official conduct. If an allegation is made, it is for the employee to demonstrate that any such rewards have not been corruptly obtained. It is also an offence to accept any gift or consideration in the knowledge or belief that it is intended as inducement or reward, whether the employee receiving it is influenced or not.
24. There may be occasions where refusal of personal hospitality or a small token gift (e.g. at Christmas or another notable religious occasion) would clearly cause offence or be impracticable for cost or other reasons. The dividing line between what is and what is not acceptable is not a clear one and you should always exercise extreme caution. If you are considering acceptance, you should discuss the matter with your line manager before doing so and seek approval from your divisional director or in their absence your chief officer.
25. Before accepting a gift or hospitality staff should consider:
  - The timing of decisions for letting contracts for which a provider may be bidding (under no circumstances should gifts or hospitality be accepted from a contractor during a tendering period).
  - Whether the gift or hospitality is appropriate e.g. an inexpensive promotional pen or diary may be accepted but more expensive items, such as a bottle of whisky, must be declined. Similarly, lunch at on-site cafeterias or invitations to local cultural events as a representative of the Council may be appropriate whereas invitations to prestigious sporting events, theatre tickets or personal invitations where you are not attending in an official capacity are not appropriate.
26. Where the refusal of an unsolicited gift may cause offence, the gift may be donated to the Speaker of the Council's official charity and the donor informed accordingly in writing.



27. You should exercise discretion in offering and accepting hospitality. You should bear in mind how it might affect your relations with the party offering it and how it might be viewed by elected Members, other potential suppliers/contractors, the public and other officers. The criteria which determine whether you should accept hospitality from firms or other organisations include:
- Whether the invitation comes from a firm likely to benefit from the goodwill of the Council or from a charity or other organisation which may not have the same kind of vested interest in the outcome;
  - Whether the firm is seeking a contract, or one has already been awarded;
  - Whether the visit is genuinely instructive or constitutes more of a social function;
  - The scale and location of hospitality, and whether it falls in working hours;
  - The frequency of the hospitality;
  - Whether it is directed just at you or to a group.
28. With the exception of minor gifts such as inexpensive calendars, pens or small stationery items, or hospitality such as refreshments during a site visit or an inexpensive working lunch, the acceptance of gifts and/or hospitality must be authorised in advance by a divisional director or chief officer and recorded in writing in the directorate register. Offers that are declined must also be recorded in the register. Divisional directors and chief officers are also required to complete the register although they are not required to seek prior authority for any action they decide to take.

## **LEGACIES**

29. On occasion members of the public or clients may wish to express their appreciation of Council officers or services of a particular employee by leaving money/gifts in their will. Members of the public should be discouraged from doing this.
30. Where an employee has notice that they are to be bequeathed money/gifts from a member of the public or client they must report this to their chief officer.
31. Details of the amount involved, the reason for the legacy and the service provided must be forwarded to the chief officer before the employee accepts the legacy.

## **CONFIDENTIAL AND OTHER INFORMATION**

32. The Council expects all employees to safeguard confidential information, including when they leave the Council's service. Information which can be classified as 'confidential' can broadly be grouped into the following areas:
- Information of a specific and personal nature about employees, potential employees, service users, customers, individuals and organisations who come into contact with the Council.
  - Sensitive organisational information.
  - Business/commercial information e.g. pricing, quotes, matters affecting negotiations with suppliers, trade unions etc.
33. Exempt committee papers (i.e. those on Part II of any Agenda) must not be released to the public or a fellow officer (unless they have a clear right of access) without the consent of the Director of Human Resources and Transformation.
34. You must not use any information obtained in the course of your employment for personal gain or benefit. You must not pass on such information to others who might use it in a similar way. All employees are under an obligation not to access or attempt to access information which they are not authorised to have.
35. Employees are bound by their contracts of employment to maintain confidentiality. Any deliberate breach of confidentiality, improper disclosure of information or misconduct in relation to official documents will be treated as a serious matter and will lead to disciplinary action.

## **OUTSIDE AND ADDITIONAL WORK**

36. Employees must comply with Section 107 of the Local Government Act 1972 regarding the non-acceptance of any fees or rewards whatsoever other than their proper remuneration. It is a criminal offence for you corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in your official capacity. If an allegation is made, it is for you to demonstrate that any such rewards have not been obtained corruptly. You must therefore ensure that any reward or fee that you receive from employment outside the Council has been authorised in advance in accordance with this Code.
37. Any additional work (whether paid or unpaid) you wish to undertake must not conflict with the Council's interests or in any way weaken public confidence in the Authority. Accordingly, all employees of the Authority are required to obtain consent, in writing (to be retained on their HR file), from their chief

officer in advance, and on each occasion, if they wish to engage in any other business, take up additional employment or work outside the Authority. This provision also applies to chief officers who will require the prior consent of the Chief Executive should they wish to engage in such activity.

38. Also you must not undertake any duties/work (whether for payment or otherwise) of a type that you normally undertake for the Council on behalf of:
  - Any other Council employee, without the prior written agreement of your chief officer who shall, if agreement is given, notify the Director of Human Resources and Transformation; or
  - Your chief officer, without the prior written agreement of the Chief Executive.
39. Employees do not need approval to undertake voluntary work or work for trade unions or political parties (subject to the provisions of the 1989 Local Government Housing Act as set out below), provided this work does not conflict with the Council's interests as specified in paragraph 37.
40. The Council will generally not give approval for additional or outside work if it:
  - Is for anyone who is in a supervisory or managerial relationship with an employee.
  - Places the employee in a position where their official duties and private interests may conflict.
  - Affects the employee's health or ability to maintain acceptable standards of work.
  - Might weaken public confidence in the conduct of the Council's business.
  - Involves the employee being in direct competition with the Council.
41. Where approval has been given to undertake additional or outside work, employees must not:
  - Use Council accommodation or facilities (vehicles, computing equipment, photocopiers, telephones etc.).
  - Submit applications of any description to the Council on behalf of any other person without written permission from their chief officer.
  - Use their knowledge of the Council or staff to help secure particular decisions or outcomes.
  - Undertake private work in office hours or when they are absent due to ill health.
  - Portray themselves as employees or agents of the Council when undertaking additional or outside work.

42. Outside work should not be undertaken for any person, company or contractor who is known by the employee to have a contractual relationship with the Council, or who is seeking work from the Council.

### **APPOINTMENTS AND RELATED EMPLOYMENT MATTERS**

43. The Council recruits on merit and requires that its appointments are made without bias, on the basis of clear assessment criteria. If you are responsible for appointing employees, it is unlawful for you to make an appointment other than on the basis of merit. It would be unlawful for you to make an appointment based on anything other than the ability of the candidate to meet the present and future needs of the Council. In order to avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a close personal relationship outside work. You must not canvas on behalf of any applicant.
44. Similarly, you must not be involved in decisions relating to discipline, promotion or pay adjustments for another employee who is a relative, partner, close friend, or where you have some other close personal relationship.
45. As an employee/potential employee you must ensure that you:
- are open and honest at any interview;
  - are open and honest on any application form;
  - disclose all criminal convictions\*;
  - disclose any pending criminal charges;
  - disclose if you are a friend or relative of (or have other links with) a Member or an employee who may influence your appointment;
  - disclose if you are the tenant or landlord of someone who may influence your appointment;
  - do nothing to seek undue favour from employees or Members in Council selection procedures.

[\* Although under the terms of the Rehabilitation of Offenders Act 1978 certain offences are categorised as being “spent” for employment purposes this exemption does not apply to certain posts, for example where the individual is engaged in work that entails contact with children.]

### **LOCAL GOVERNMENT AND HOUSING ACT 1989**

46. As a result of provisions introduced under the Local Government and Housing Act 1989 to ensure the political impartiality of local government employees, some employees’ posts are subject to political restriction. This means that the postholders are prohibited from involvement in political activities as these could conflict with the responsibilities at work.

47. The Local Government and Housing Act 1989 requires that anyone who is employed by a local authority in a politically restricted or sensitive post is disqualified from being elected as a Member in another local authority or as a Member of Parliament or as a Member of the European Parliament. Employees holding politically restricted posts are also unable to undertake certain political activities within the following broad categories:-
- Writing or speaking publicly on politically controversial issues.
  - Canvassing at any election on behalf of a political party or at elections for MPs, MEPs, Mayor or Councillors.
  - Holding office in any political party.
  - Publicly declaring themselves a candidate for Mayor, Councillor, MP or MEP.
48. The Act requires that employees holding the following posts should be politically restricted:
- Employees giving regular advice to Committees or Sub-Committees.
  - Employees who regularly speak to journalists or broadcasters on behalf of the Council.
49. A list of politically restricted posts is held by the Corporate Director, Governance. It contains the post designations and the section of the Act relating to their inclusion on the list
50. Under the Local Government (Political Restrictions) Regulations 1990, the failure of a postholder holding a politically restricted post to comply with the restriction will result in disciplinary action being taken on the grounds of misconduct.

## **POLITICAL NEUTRALITY AND CONTACT WITH MEMBERS**

51. Employees serve the Authority as a whole. It follows that they must serve all Members (the Mayor and all Councillors, not just those of the ruling political group) and must ensure that the individual rights of all Members are respected treating political groups and individual Members in a fair and even handed manner. Insofar as employees may be required to advise political groups, they must do so in ways that do not compromise their own political neutrality. This subject is covered in detail in the Member/Officer Protocol which governs relations between elected Members and Council officers.
52. It is important that Members' enquiries should be dealt with efficiently and effectively within the established policy and procedures for the service area concerned. If employees consider that unreasonable Member pressure is

being brought to bear with a particular issue outside of established procedures and policies, the relevant details must be referred to your chief officer. It is the Chief Executive's responsibility to determine whether the incident concerned should be reported to the Group Secretaries.

53. Lines of communication between Members, employees and members of the public should accord with defined and established management practice, be readily identifiable and respected by all concerned.
54. Individual employees should not approach elected Members directly on employment matters.
55. Representations to Members should be made through chief officers or normal Trade Union/Member communication forums.
56. Employees must not disrupt official meetings of the Council or of its Cabinet, Committees, Sub-Committees, etc.

#### **PUBLICATIONS - BROADCASTS**

57. Employees who are broadcasting on a subject connected with the work of the Council are required to obtain permission from the Chief Executive and their chief officer in advance and to submit where possible a copy of the script of the broadcast or otherwise advise on general subject matter.
58. Employees should not publish, or authorise without the permission of their chief officer the publication of any book or article by them or with others which indicates that the writer is an employee of or connected with the London Borough of Tower Hamlets.
59. Similarly, employees should not, without permission from the Council, make any communication to a newspaper or other journal in which there is any indication that they are an employee or otherwise connected with the London Borough of Tower Hamlets. Employees acting in either a personal capacity or as a spokesperson for outside groups should not bring the Council into disrepute by publicising material adverse to the Council or other employees. This is not intended to preclude Trade Unions from pursuing their legitimate industrial relations activities.
60. The Council has established a Communications Section, which is responsible for all official press releases and statements. Individuals who are asked by the media to make comments should refer such requests direct to that section.
61. Employees should consider whether their public statements made about the Council (whether as a spokesperson for an organisation or as an individual)

could reflect in some unacceptable way upon the employer-employee relationship.

## **WHISTLEBLOWING**

62. The Council expects employees who witness, or have their suspicions raised, or are approached to become party to potentially fraudulent, corrupt, dangerous or improper behaviour, to report these incidents or concerns either to their line manager or other council manager or through the agreed whistleblowing procedures. Failure to do so could implicate you in the misconduct.
63. The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take appropriate action to protect employees who raise a concern in good faith.
64. Employees who are subject to procedures (such as but not limited to disciplinary or redundancy) will not have those procedures halted as a result of raising concerns under this procedure.
65. Concerns should normally be raised initially with your line manager or supervisor. However, the most appropriate person to contact will depend on the seriousness and sensitivity of the issues involved and who is suspected of the misconduct/ malpractice. If for any reason you do not feel that it is appropriate to express your concerns in this way, the Council's whistleblowing policy explains the other routes available to you.
66. Malicious allegations i.e. deliberately raising false complaints with the intention of harming someone will be regarded as serious misconduct.
67. Raising concerns through the media is not an appropriate or effective channel and may result in an employee breaching obligations under this Code resulting in disciplinary action. The Council's whistleblowing policy gives details of how to raise concerns with more appropriate and independent organisations outside the Council.

## **COUNCIL POLICIES, PROCEDURES AND OPERATING GUIDELINES**

68. In addition to this Code of Conduct, the work of Council employees is governed, in most areas, by established policies, procedures and operational guidelines which ensure:

(a) that the Council meets its statutory obligations,

- (b) that service standards are maintained,
- (c) that staff operate within their approved authority, and
- (d) that proper monitoring and auditing processes can be applied.

69. Whilst your manager will assist you, employees also have a personal responsibility to ensure that they are familiar with their responsibilities under the Council's Constitution and work within Council policies, procedures and operating guidelines.
70. Allegations of any failure to meet the requirements of this Code may be dealt with under the Council's Disciplinary Procedure.



## 34 Licensing Code of Conduct

### CONTENTS

<b>Section</b>	<b>Subject</b>
<b>1</b>	Introduction
<b>2</b>	Human Rights Act
<b>3</b>	Quasi-Judicial Hearings
<b>4</b>	Predisposition, Predetermination, or Bias
<b>5</b>	Interests
<b>6</b>	Training of Councillors
<b>7</b>	Application by a Councillor or an Officer
<b>8</b>	Application by the Council (or where the Council is the landowner)
<b>9</b>	Lobbying
<b>10</b>	Pre-hearing discussions
<b>11</b>	Site Visits
<b>12</b>	Relationship between Councillors and Officers
<b>13</b>	Conduct at the Hearing
<b>14</b>	Councillors who are not on the Committee
<b>15</b>	Making the decision
<b>16</b>	Appeals
<b>17</b>	Record Keeping
<b>18</b>	Procedure Notes
<b>Appendix</b>	
<b>A</b>	Rules of Procedure Governing Applications for Premises Licences and other permissions under the Licensing Act 2003
<b>B</b>	Rules of Procedure for Sex Establishment Licences under Section 2 of and Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended)
<b>C</b>	Do's and Do Not's

## 1. INTRODUCTION

- 1.1 The Licensing Code of Conduct has been adopted by Tower Hamlets Council to regulate the performance of its licensing functions that fall within the Terms of Reference for the Licensing Committee. Its major objectives are to guide Councillors and officers of the Council in dealing with licensing related matters and to inform potential licensees and the public generally of the standards adopted by the Council in the exercise of its licensing functions. Except where otherwise stated, references in this Code are to the Licensing Committee and its Sub-Committees and the expression "Licensing Committee" should be interpreted accordingly.
- 1.2 The Licensing Code of Conduct is in addition to the Code of Conduct for Members adopted under the provisions of the Localism Act 2011. Councillors should follow the requirements of the Code of Conduct for Members and apply this Code in light of that Code. Whilst most decisions taken by Councillors are administrative in nature, the work of the Licensing Committee is different in that its proceedings are quasi-judicial and the rules of natural justice apply. This imposes a new and higher set of standards on those Councillors who are involved in the decision-making process.
- 1.3 The provisions of this Code are designed to ensure that licensing decisions are taken on proper licensing grounds, in a fair consistent and open manner and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist Councillors in dealing with and recording approaches from applicants, licensees and objectors and is intended to ensure that the integrity of the decision-making process is preserved.
- 1.4 This Code is part of the Council's ethical framework and in addition to the Code of Conduct for Members should be read in conjunction with the Member/Officer Protocol. If a Councillor does not abide by the Code then that Councillor may put the Council at risk of proceedings on the legality or maladministration of the related decision and the Councillor may be at risk of either being named in a report to the Standards Advisory Committee or Council. A failure to abide by the Code is also likely to be a breach of the Code of Conduct for Members and which could result in a complaint being made to the Monitoring Officer.
- 1.5 **If a Councillor has any doubts about the application of this Code to their own circumstances they should seek advice early, from the Monitoring Officer and preferably well before any meeting takes place.**

## 2. HUMAN RIGHTS ACT

- 2.1 The Human Rights Act 1998, which came into full effect on 2<sup>nd</sup> October 2000, incorporated the key articles of the European Convention on Human Rights into domestic law. The Convention guarantees certain basic human rights.

As far as possible legislation (including the licensing laws) must be interpreted in such a way as to conform to Convention rights. Decisions on licensing issues are actions of a public authority and so must be compatible with Convention rights.

**2.2** Councillors of the Committee need to be aware of the rights contained in the Convention when making decisions and in particular:

***Article 6: Right to a fair trial***

In the determination of a person's civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

***Article 8: Right to respect for family and private life***

1. Everyone has a right to respect for his or her private life, and his or her home and correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

***Article 1: of the First Protocol: Protocol of property***

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his or her possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

***Article 14: Prohibition of discrimination***

The enjoyment of the rights and freedoms in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

**2.3** Article 6 is an 'absolute' right and cannot be interfered with. This means that these rights can never be detracted from because it is considered to be fundamental to the rights of people. The Licensing Committee's decisions on most licensing functions are subject to independent tribunals, usually the Magistrates' Court, so satisfying the provisions of Article 6. The Licensing

Committee must however conduct a fair hearing in accordance with the rules of natural justice.

- 2.4** Article 8 and Article 1 of the First Protocol are both qualified rights and the Council can interfere with these provided that such interference had a clear legal basis. In therefore deciding whether to interfere with this right, Councillors should consider the matter within the framework of a ‘fair balance’ test. This requires that a balance be struck between the protection of the right of property and the general interests of the community. An interference with a person’s rights must be proportionate and go no further than is necessary.
- 2.5** Specifically as to Article 1 of the First Protocol, an existing licence is a possession under this Article and therefore if a person does not currently hold a licence then it will not apply. Article 1 of the First Protocol also has relevance in respect of any third parties objecting to a licensing application, because of their right to the enjoyment of their property.
- 2.6** As to Article 14, whilst this is also an ‘absolute’ right it does not create an independent right as it only operates to prevent discrimination in the exercise of other convention rights. If there is discrimination however in respect of a particular protected right then there is no need to show a violation of the article giving such right for there to be a breach of Article 14. All it is necessary to show is that there has been discrimination. Accordingly, in exercising its Licensing Functions, the Council must not treat persons differently where such persons are placed in an analogous situation.

### **3. QUASI-JUDICIAL HEARINGS**

- 3.1** A quasi-judicial hearing is one:
- which affects a person’s livelihood;
  - which involves disciplinary action; or
  - which affects property
- 3.2** These hearings are subject to the rules of natural justice. Properly applied, the rules of natural justice will ensure that the requirements of the Convention that a hearing is both “fair” and presided over by an “independent and impartial tribunal” are met.
- 3.3** There are two principles underlying the rules of natural justice. First, all parties must be given a chance to put their case under conditions which do not put one party at a substantial disadvantage to the other party. All parties should be given sufficient notice of the hearing and the applicant should have disclosure of the nature of the objections/ representations as well as knowing who is objecting/ making a representation so that they can prepare a response to the points raised in such objections/ representations.

- 3.4** The rules of natural justice could also include asking questions of other parties. In respect of ‘Alcohol and Entertainment Licensing’ however, the Licensing Act 2003 (Hearings) Regulations 2005 (‘the 2005 Regulations’) provide that the hearing should take the form of a discussion led by the authority and cross-examination should not be permitted unless the Licensing Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
- 3.5** As to sufficient notice of the hearing, in respect of ‘Alcohol and Entertainment Licensing’, the 2005 Regulations also address this point as they specify the **period of time within which a hearing must be commenced; the minimum time before the hearing that notice should be given; persons to whom notice of hearing is to be given; and the documents to accompany notice of hearing.** The 2005 Regulations **do provide that a failure to comply with the Regulations does not of itself render the proceedings void** but where there is such an irregularity, the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity before reaching its determination.
- 3.6** The Licensing Committee should always satisfy itself that sufficient notice of the hearing has been given to all parties and if not satisfied, then the Licensing Committee should take such steps as it thinks fit to deal with that issue before reaching its determination and this could include adjourning that application to a later date.
- 3.7** Second, a person who has an interest in an application must be disqualified from considering it. The Licensing Committee must be impartial – not only must there be no actual bias but there must be no perception of bias.
- 3.8** The procedure rules which govern hearings of the Licensing Committee reflect the requirements of the Human Rights Act and the rules of natural justice. To avoid any allegations of bias or perceived bias, Councillors sitting on the Licensing Committee must strictly observe those procedure rules.
- 3.9** The use of a party political whip is inconsistent with the rules of natural justice and must be avoided by Councillors sitting on the Licensing Committee.

#### **4. PREDISPOSITION, PREDETERMINATION OR BIAS**

- 4.1** Section 25 of the Localism Act 2011 (‘the 2011 Act’) provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an

objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.

- 4.2** As to predetermination, this is a legal concept and is used in situations where a decision maker either has, or appears to have, a closed mind. That is they have made up their mind in advance of proper consideration of an issue and the merits of an application. Section 25 of the 2011 Act does not amount to the abolition of the concept of predetermination however, as no one should decide a case where they are not impartial or seen to be impartial. Critically, Councillors need to avoid any appearance of bias or of having a predetermined view before taking a decision. Indeed, Councillors should not take a decision on a matter when they are actually biased in favour or against the application, or where it might appear to a fair and informed observer that there was a real possibility of bias, or where a Councillor has predetermined the matter by closing their mind to the merits of the decision.
- 4.3** Councillors must not make up their mind on how they will vote on any licensing matter prior to formal consideration of the matter at the meeting of the Licensing Committee and the Councillor hearing the evidence and arguments on both sides. A Councillor should not make comments on Licensing policy or procedures, or make any commitment in advance as to how they intend to vote on a matter, which might indicate that they have closed their mind.
- 4.4** **Any licensing decision made by a Councillor who can be shown to have approached the decision with a closed mind will expose the council to the risk of legal challenge.**
- 4.5** Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition).
- 4.6** If a Councillor considers that they do have a bias or cannot be impartial then they should withdraw from being a Member of the Licensing Committee for that application.
- 4.7** Councillors should note that, unless they have a disclosable pecuniary interest or a significant personal interest (see section 5 below), they will not appear to be predetermined through-
- listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to prejudging the issue and the Councillor makes clear that they are keeping an open mind;
  - seeking information through appropriate channels; or

- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided the Councillor explains their actions at the start of the meeting or item and makes it clear that, having expressed the opinion or ward/ local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

#### 4.8 The following advice applies:

- Councillors must not make up their mind, or appear to have made up their mind on how they will vote on any licensing matter prior to formal consideration of the matter at the meeting of the Licensing Committee and of the Councillor hearing evidence and arguments on both sides. This includes deciding or discussing how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so. If a Councillor has an interest in a local lobby group or charity or pressure group they may appear predetermined by their actions and/ or statements made in the past. The Councillor should take advice from the Legal Adviser to the Licensing Committee on how to deal with this.
- It must be noted that if a Councillor is predetermined then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or predetermination or, a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- A Councillor may appear pre-determined where the Council is the landowner, developer or applicant and the Councillor has acted as, or could be perceived as being, a chief advocate for the proposal. This would arise where that through the Councillor's significant personal involvement in preparing or advocating the proposal the Councillor will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its licensing merits.
- Councillors should recognise that in being a Councillor of a political group they are allowed to be predisposed in relation to licensing policies of the Council or to licensing policies of the Councillor's political party, providing that predisposition does not give rise to a public perception that the Councillor has, due to his/ her political membership, predetermined a particular matter.
- When considering a licensing application, Councillors must:
  - act fairly and openly;
  - approach each application with an open mind; carefully weigh up all relevant issues; and
  - determine each item on its own licensing merits
- And Councillors must not:
  - take into account irrelevant issues;

- behave in a manner that may give rise to a public perception that they may have predetermined the item; and
- behave in such a manner which may give rise to a public perception that they may have been unduly influenced in reaching a decision.

## **5. INTERESTS**

**5.1** In order to avoid allegations of bias it is important that Councillors are scrupulous in declaring interests at the hearing.

**5.2** There are three (3) categories of interests, namely:

- Disclosable pecuniary interests (DPIs);
- Other registerable interests; and
- Non registerable interests.

**5.3** Chapter 7 of the 2011 Act places requirements on Councillors regarding the registration and disclosure of their pecuniary interests ('DPI') and the consequences for a Councillor taking part in consideration of an issue in the light of those interests. The definitions of DPI taken from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are set out in paragraph 3.4 of the Code of Conduct for Members. A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. These interests can be either an interest of the Member or an interest (of which the Member is aware) of a spouse, civil partner or a person that the Member is living with as a spouse or civil partner. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes.

**5.4** A failure to register or declare a DPI or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a Councillor has a DPI, are criminal offences.

**5.5** A DPI relating to an item under discussion requires the immediate withdrawal of the Councillor from the Licensing Committee. In certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business and which could arise where the Councillor is the applicant or has made a representation for or against the application.

**5.6** Having regard to the rules of natural justice and the requirement that a Councillor who has an interest in an application must be disqualified from considering it, then consideration must also be given to other non-DPI personal interests that are either registrable as required by the Code of Conduct for Members or are personal interests that do not require registration.



- 5.7** A personal interest in a matter arises if a Councillor anticipates that a decision on it might reasonably be regarded as affecting (to a greater extent than other council tax payers, ratepayers or residents of the Council's area) the well-being or financial position of the Councillor, a relative or a friend or
- the employment or business carried out by those persons, or in which they might be investors (above a certain level);
  - any of the bodies with which the Councillor is associated, and which the Councillor will have registered in the register of interests.
- 5.8** If a Councillor has a personal interest in any licensing application or other matter before the Licensing Committee then the Member shall, if present, disclose the existence and nature of the interest at the start of the meeting and, in any event, before the matter is discussed or as soon as it becomes apparent. The full nature of the interest must be declared. The declaration and disclosure of a personal interest does not usually debar a Councillor from participation in the discussion or voting provided that the personal interest is not so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest (see 5.9 below).
- 5.9** The position is different however where a member of the public, with knowledge of the relevant facts, would reasonably regard the personal interest as so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest. Examples of this are working closely with an applicant or a group of objectors to achieve a certain outcome; lobbying other Councillors on the Committee; acting as an agent for a person pursuing a licensing matter with the Council; or generally declaring voting intentions ahead of the meeting etc.
- 5.10** A Councillor with a personal interest which might appear to a fair and informed observer that there was a real possibility of bias must not participate in the discussion on the application and must leave the room immediately when the discussion on the item begins or as soon as the interest becomes apparent. They cannot seek to influence the decision, save that if a member of the public has the right to attend the meeting, make representations, answer questions, or give evidence, then a Councillor will have the same right. Once the Councillor has exercised that right then the Councillor must withdraw from the room for the rest of that item and play no further part in the discussion or vote.
- 5.11** Being a Councillor for the ward in which particular premises are situated is not necessarily declarable and as a general rule Councillors of the Committee may deliberate on matters affecting their wards provided they do so with an open mind. Councillors should remember, however, that their overriding duty is to the licensing objectives and not to the residents and businesses within their ward. Councillors have a duty to make decisions impartially, and should

not improperly favour, or appear to improperly favour, any person, company, group or locality. If a Member feels that they cannot do this then the Member must leave the room when the discussion on the item begins.

- 5.12** More information on what constitutes an interest as well as the obligation on Councillors to register their interests is contained in the Code of Conduct for Members set out in Part C Section 31 of the Constitution. The ultimate responsibility for fulfilling these requirements rests with individual Councillors but the Council's Monitoring Officer or the Service Head Legal Services are available to give advice if required.

## **6. TRAINING OF COUNCILLORS**

- 6.1** As the technical and propriety issues associated with licensing are not straightforward, Councillors on the Licensing Committee must participate in a programme of training on the licensing system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. The aim of the training is to assist Members in carrying out their role properly and effectively. If a Councillor fails to participate in the compulsory elements of the training this may result in that Councillor being asked to stand down as a Councillor of the Licensing Committee.

- 6.2** Councillors should be aware that training is particularly important for Councillors who are new to the Licensing Committee and for Councillors who have not attended training in the recent past. Other Councillors are free to attend the training in order to gain an understanding of licensing issues.

- 6.3** Where a Member has a genuine difficulty in attending any particular training session officers will try when practicable to accommodate a request for an individual or repeat session.

## **7. APPLICATION BY A COUNCILLOR OR OFFICER**

- 7.1** The Licensing Committee may need to determine an application submitted by a Councillor or an officer, or by a company or individual with which a Councillor or officer has an interest or relationship. For the avoidance of doubt, the term Councillor or an officer includes any former Councillors or officers. In such cases, it is vital to ensure that such application is handled in a way that gives no grounds for accusations or favouritism. Accordingly the matter will be dealt with as follows-

- (a) On receipt of such an application, a copy of the application will be referred to the Corporate Director.
- (b) The Corporate Director will pass a copy of the application to the Monitoring Officer who will satisfy himself/ herself that the application can be, and is being, processed and determined without suspicion or impropriety.

- (c) If a Councillor or an officer submit their own proposal to the Council which they serve, they must take no part in its processing or the decision making process.
- (d) The Councillor making the application would almost certainly have a DPI and should not address the Committee as the applicant but should appoint an independent agent to represent their views.
- (e) Councillors of the Licensing Committee must consider whether the nature of any relationship with the person (either a Member or an officer) making the application requires that they make a declaration of interest and if necessary also withdraw from the meeting.
- (f) In respect of former Councillors or former officers the above requirements shall apply for a period of three years following their departure from the Council.

## **8. APPLICATION BY THE COUNCIL (OR WHERE THE COUNCIL IS THE LANDOWNER)**

- 8.1** Councillors may need to determine an application submitted by the Council for the Council's own land or in respect of land where the Council is the landowner. It is perfectly legitimate for such applications to be submitted to and determined by the Licensing Authority. Applications should be treated with the same transparency and impartiality as those of other applicants so as not to give rise to suspicions of impropriety.
- 8.2** If a Councillor has been heavily committed or involved in an area of policy/issue relating to such an application (e.g. as a Cabinet Member), then that Councillor must consider whether they have an interest which should be disclosed. In such circumstances, the Councillor should seek advice from the Legal Adviser to the Licensing Committee.

## **9. LOBBYING**

- 9.1** Councillors may be approached or lobbied by an applicant, agent or objector about a particular licensing application. This can happen prior to an application being made or at any time after the application is made. Whilst lobbying is a normal and perfectly proper part of the political process, it can cause the perception of bias or predetermination especially when a Councillor must enter the meeting with an open mind and make an impartial determination on the relative merits of all the evidence presented at the hearing.
- 9.2** To avoid such perception, if a Member is approached then they should:
  - (a) inform such applicant or agent or interested party/ objector that such approach should be made to officers or to elected Councillors who are not Councillors of the Licensing Committee;

- (b) forthwith notify in writing to the Monitoring Officer the fact that such an approach has been made, identifying the application, the nature of the approach, by whom it was made, and the action taken by the Member concerned; and
  - (c) keep an adequate written record so as to enable the Member to disclose the fact and nature of such an approach at any relevant meeting of the Licensing Committee.
- 9.3** If the Councillor does discuss the case then in no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and detrimental. As stated in 9.2(c) above, the Councillor must keep an adequate written record of the discussion so as to enable the Member to disclose the fact and nature of such an approach at any relevant meeting of the Licensing Committee.
- 9.4** If a Councillor who is not a Councillor of the Licensing Committee is contacted by an applicant, objector or interested party then that Councillor can discuss the issues raised by their constituent with the appropriate licensing officer and may forward any representations or evidence to that officer, who will, provided it is lawful, include the relevant information in the report to the Licensing Committee. If a Councillor wishes to make their own representations about a matter they should likewise make those representations to the appropriate Licensing officer.
- 9.5** When attending a public meeting at which a licensing issue is raised, a Councillor of the Licensing Committee should take great care to maintain an impartial role and not express a conclusive view on any pre-application proposals or submitted application. As stated in 9.2(c) above, the Councillor must keep an adequate written record of the discussion so as to enable the Member to disclose the fact and nature of such an approach at any relevant meeting of the Licensing Committee
- 9.6** Correspondence received by any Councillor (whether on the Licensing Committee or not), should be passed without delay to the Corporate Director so that all relevant views can be made available to those Councillors or officers responsible for determining the application. A reply by a Councillor should, as a rule, simply note the contents of the correspondence and advise that it has been passed to officers.
- 9.7** Councillors should not accept gifts or hospitality from any person involved in or affected by licensing application. If a degree of hospitality is entirely unavoidable, then the Councillor must comply with the provisions in the Code of Conduct for Members on Gifts and Hospitality.
- 9.8** Councillors should not become a member of, lead or represent a national charity or local organisation whose primary purpose is to lobby to promote or oppose licensing applications. If a Councillor does then it is likely

to appear to a fair and informed observer that there is a real possibility of bias and that Councillor will be required to withdraw from the debate and decision on that matter.

- 9.9** Councillors must also not lobby fellow Councillors regarding their concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any licensing decision is to be taken.

## **10. PRE HEARING DISCUSSIONS**

- 10.1** Discussions between a potential applicant and representatives of the Council may be of considerable benefit to both parties. Similarly, a meeting between the Council and potential objectors may also be beneficial. However, it would be easy for such discussions to become or be seen (especially by objectors) to become part of a lobbying process. In the circumstances, pre-application discussions should be avoided by Councillors of the Licensing Committee.

- 10.2** Generally, any contact with applicants and/ or objectors should only be conducted with and through officers and should always be reported to the Licensing Committee. Requests to a Councillor for a meeting should be passed to the Corporate Director.

## **11. SITE VISITS**

- 11.1** If a site visit takes place, its purpose is to gain information relating to the premises which are the subject of the licensing application or revocation to be considered by the Licensing Committee. A site visit may also assist Councillors in matters relating to the context of the application or revocation, the characteristics of the premises and the surrounding area. Councillors should avoid expressing opinions during site visits to any person present, including other Members. Councillors can, of course, rely upon their own local knowledge.

- 11.2** During site visits, Councillors of the Licensing Committee shall not engage individually in discussion with applicants or objectors.

- 11.3** On site visits applicants, agents, objectors or other interested parties shall only be permitted to point out to Councillors features to look at either on the premises or in the vicinity, which are relevant to the application. No discussion will take place on the merits of the application or revocation.

- 11.4** A Councillor of a Licensing Committee may request a site visit, prior to the meeting of the Committee, in which case their name shall be recorded. They shall provide and a record be kept of:

- (i) their reason for the request; and

- (ii) whether or not they have been approached concerning the application and if so, by whom

and unless the Councillor provides these at least one week prior to the relevant meeting, a site visit will not proceed.

- 11.5** If any Councillor of the Licensing Committee wishes to informally view an application's site then that viewing must only take place if it can be done from a public place. Councillors of the Licensing Committee shall not enter any premises which are the subject of a licensing application or known by them to be likely to become such in order to meet the agent, applicant, licensee or other interested party, save in the course of a formal accompanied site visit. In exceptional circumstances such as where a Councillor is unable to attend an official site visit that has been arranged, a site visit by an individual Councillor may be carried out provided that the Councillor is accompanied by a licensing officer.

## **12. RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 12.1** Councillors of the Licensing Committee shall not attempt in any way to influence the terms of the officers' report upon any application.
- 12.2** Any criticism by Councillors of the Licensing Committee or an officer in relation to the handing of any licence application should be made in writing to the Corporate Director and/ or the Monitoring Officer and not to the Officer handling the application.
- 12.3** If any officer feels or suspects that pressure is being exerted upon him/ her by any Councillor of the Council in relation to any particular application, they shall forthwith notify the matter in writing to the Monitoring Officer.
- 12.4** If any officer of the Council who is involved in dealing with any licensing application has had any involvement with an applicant, agent or interested party, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare this interest in the public register held by the Monitoring Officer and take no part. This public register is to be available for inspection at the Licensing Committee meeting.
- 12.5** No officer of the Council shall engage in any paid work for any licensing matter for which Tower Hamlets is the Licensing Authority other than on behalf of the Council.

### **13. CONDUCT AT THE HEARING**

- 13.1** The essence of the rules of natural justice is that Councillors not only act fairly but are also seen to act fairly. Councillors must follow agreed procedures at all times and should only ask questions at the appropriate points in the procedure. At no time should a Councillor express a view which could be seen as pre-judging the outcome. During the course of the hearing Councillors should not discuss (or appear to discuss) aspects of the case with the applicant, an objector, their respective advisers or any member of the public nor should they accept letters or documents from anyone other than an officer from Democratic Services or the Legal Advisor to the Committee.
- 13.2** Councillors of the Licensing Committee shall refrain from personal abuse and party-political considerations shall play no part in the Committee's deliberations. Councillors shall be respectful to the Chair and to each other and to officers and Members of the public including applicants, their agents and objectors and shall not bully any person.
- 13.3** When questioning witnesses at a meeting of a Licensing Committee, Councillors shall ensure that their questions relate only to licensing considerations relevant to the particular application.
- 13.4** Councillors must ensure that they hear the evidence and arguments for and against the application, in accordance with the rules of natural justice. Councillors must ensure that both the applicant and the objectors receive a fair hearing. Applicants must have the opportunity in advance of the hearing to prepare their case in answer to the objectors/ interested parties/ responsible authorities.
- 13.5** If a Councillor of the Licensing Committee arrives late for a meeting, they will not be able to participate in any item or application already under discussion. Similarly, if a Councillor has to leave the meeting for any length of time, they will not be able to participate in the deliberation or vote on the item or application under discussion at the time of their absence. If a Councillor needs to leave the room, they should ask the Chair for a short adjournment
- 13.6** It is permissible for the Chair of the meeting to curtail statements of parties or witnesses, if they are merely repeating matters which have already been given in evidence.
- 13.7** In considering objections/ representations Councillors are advised that if such are founded on a demonstrable misunderstanding of the true factual position, or otherwise indicate no more than an uninformed reaction to a proposal then they carry no weight whatever and must be ignored. Further Councillors are advised that the mere number of objections irrespective of their content can never be a good reason for refusing an application. What matters are the grounds on which such are based.

- 13.8** Also in considering the application, it may well be that hearsay evidence is presented. Councillors are advised that the strict rules of evidence do not apply in licensing applications and therefore hearsay is admissible. Indeed, hearsay might by its source, nature and inherent probability carry a greater degree of credibility than first hand evidence. What must be discounted, however, are gossip, speculation and unsubstantiated innuendo. In considering hearsay evidence, it should only be accepted where it can fairly be regarded as reliable although Councillors must give the other side a fair opportunity of commenting on it and contradicting it. Ultimately, hearsay evidence must be treated with great reservation by Councillors, who must make an assessment of its weight and credibility.
- 13.9** When new matters are raised as objections by any person at a hearing, the Licensing Committee is not obliged to hear them. However, if Councillors feel that the new matter raised by the objector should be considered, but the applicant needs further time to consider their response then the applicant should be offered an adjournment of the meeting (either for a short period during the meeting itself or if necessary to a new date). (This paragraph does not apply to 'Alcohol and Entertainment Licensing' under the Licensing Act 2003 or 'Gambling Licensing' under the Gambling Act 2005, as new objections cannot be raised at the hearing).

#### **14. COUNCILLORS WHO ARE NOT ON THE COMMITTEE**

- 14.1** A Councillor who is not a member of the Committee may speak at the meeting, with the agreement of the Chair, as an advocate for either the applicant or the objectors. A Councillor wishing to speak should submit a written statement within the relevant consultation period. The applicant has the right to see any objections in advance. They also have a right of reply.
- 14.2** Councillors addressing the Committee should disclose any interests they may have, including the fact that they have been in touch with the applicant, the objectors or their respective agents and whether they are speaking on behalf of any of those people at the meeting.
- 14.3** A Councillor who is not on the Committee but who is at one of its meetings should normally sit apart from the Committee to demonstrate that they are not taking part in the discussion, consideration or vote. They should not communicate with Councillors on the Committee or pass papers or documents to them before or during the meeting. They may not attend briefings or accompany the Committee if it retires to deliberate in private..
- 14.4** Councillors who are opposed in principle to any category of application or form of public entertainment, either in their own ward or borough-wide, should not seek nomination to the Committee.



## **15. MAKING THE DECISION**

- 15.1** The decision whether or not to grant a licensing application is a decision for the Councillors of the Licensing Committee only. The assessment of the weight and credibility of evidence is also for Councillors alone to decide.
- 15.2** Councillors shall retire to decide the matter in closed session. The Legal Officer and Democratic Services Officer present at the meeting will retire with them. During such closed session, the Legal Officer will only provide advice on legal issues relating to the application and will assist in the drafting of any proposed conditions to ensure that they are legally enforceable.
- 15.3** In accordance with regulations, Councillors considering applications relating to 'Alcohol and Entertainment Licensing' under the Licensing Act 2003 or 'Gambling Licensing' under the Gambling Act 2005 should disregard any information provided by any party which is not relevant to;
- a) their application, representations or notice (as applicable); and
  - b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the Police.
- 15.4** Councillors will normally return to open session to announce its decision and give reasons for the same but in cases where the prescribed time limit allows for a later determination and it is appropriate to determine the matter within that time then the Chair will advise the parties present that the decision will not be announced then but that the determination will take place within the prescribed time limit and that written notification will be dispatched to all parties advising them of the determination.
- 15.5** Written notice of the decision together with Councillors' reasons will always be given and such notice will set out any rights of appeal against the decision.
- 15.6** Councillors own knowledge of the circumstances surrounding an application is valid provided that they are put to the applicant for a response. In reaching their decision Councillors must have regard to the evidence presented at the hearing, both the documents circulated in advance and the oral evidence. The decision must be based on the evidence alone and Councillors have a duty to ensure that they have regard to all the relevant matters before them and only those matters.
- 15.7** Councillors considering an application have a duty to determine it only on the facts before them relating to that individual case and not decide it as a matter of general policy. Councillors must not make unreasonable decisions that no other reasonable licensing authority would arrive at, having regard to the legal principle of "Wednesbury reasonableness".

**15.8** In considering applications, Councillors must also have due regard to any Council Policy (e.g. the Council's Statement of Licensing Policy) and any statutory guidance (e.g. Licensing Guidance issued under section 182 of the Licensing Act 2003). Any departure from such should be justified and based on the facts before them.

**15.9** Councillors should be aware that an unreasonable decision taking into account the above criteria is unlikely to be sustained on appeal. In this instance, the authority foregoes the opportunity to attach terms and conditions to a licence and will likely have to pay costs. The role of officers is to point this out and advise Councillors as to the potential risk of losing an appeal and being required to pay the other parties costs as a consequence. This needs to be balanced with the Council's fiduciary duty towards the local taxpayer in terms of the Council being a public body spending public money.

## **16. APPEALS**

**16.1** The Licensing Committee's decision is not a final one and applicants (and in certain cases interested parties and responsible authorities) have the right to appeal to the Magistrates Court and beyond in certain cases.

**16.2** An appeal must be lodged within a prescribed time of receiving written notification of the decision.

**16.3** On such appeals the hearing takes on an increasingly formalised nature, based solely on the evidence given. The Council will only be able to sustain its defence if it can substantiate its grant or refusal of a licence by relevant admissible evidence. Councillors who consider basing the grant or refusal of a licence on their personal knowledge should be prepared to testify to the relevant facts in any appeal proceedings.

**16.4** Taking this factor into account along with the real risk of costs against the Council, Councillors must be wary of relying on any matters which could not readily be proved in evidence. Essentially, for Committee decisions to "stand up" on appeal and to avoid costs being awarded against the Authority, decisions to grant or refuse licences or impose conditions must be justified.

## **17. RECORD KEEPING**

**17.1** In order that licensing procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every licensing application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interests by Councillors. Records will be kept in accordance with the Council's Information Governance Framework and, specifically, the Council's Records Management Policy.

## **18. SUMMARY DOS AND DO NOT'S**

### **1. Councillors must:**

- (a) Attend compulsory training sessions;
- (b) Be open minded and impartial;
- (c) Declare any actual interest;
- (d) Listen to the arguments for and against;
- (e) Carefully weigh up all relevant issues;
- (f) Ask questions that relate only to licensing considerations relevant to the particular application;
- (g) Make decisions on merit and on licensing considerations only;
- (h) Respect the impartiality and integrity of the Council's officers;
- (i) Report any lobbying from applicants, agents, objectors or any other Councillor;
- (j) Promote and support the highest standards of conduct; and
- (k) Promote equality and not discriminate unlawfully against any person, and treat all people with respect.

### **2. Councillors must not:**

- (a) Be biased or give the impression of being biased;
- (b) Improperly confer an advantage or disadvantage on any person nor seek to do so;
- (c) Act to gain a financial or other benefit for themselves, their family, friends or close associates;
- (d) Place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a member (e.g. by accepting gifts or hospitality from any person involved in or affected by a licensing application);
- (e) Place themselves in a position where their integrity might reasonably be questioned;
- (f) Participate in a meeting where they have a DPI;
- (g) Participate in a meeting where they have an interest which does or could be reasonably considered as giving rise to bias; and
- (h) Express opinions during any site visit to any person present, including other Members.

## **19. PROCEDURE NOTES**

- 19.1** Appendix A to this Code of Conduct sets out the Rules of Procedure Governing Applications for Premises Licences and other permissions under the Licensing Act 2003. This is set out in Part D Section 53 of the Constitution.
- 19.2** Appendix B to this Code of Conduct sets out the Rules of Procedure Governing Applications for Sex Establishment Licences under Section 2 of and Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended). This is set out in Part D Section 53 of the Constitution.

## 35 Planning Code of Conduct

### CONTENTS

<b>Section</b>	<b>Subject</b>
1	Introduction
2	Predisposition, Predetermination, or Bias
3	Interests
4	Training of Councillors
5	Application by a Councillor or an Officer
6	Application by the Council
7	Lobbying
8	Pre-meetings, Presentations and Briefing Sessions
9	Site Visits
10	The Role of the Executive
11	Relationship between Councillors and Officers
12	Conduct at the Committee
13	Decision making
14	Record keeping
15	Guidance/ Procedure Notes
16	Do's and Do Not's
17	What if?
<b>Appendices</b>	
<b>A</b>	Council guidelines for determining planning applications
<b>B</b>	Development Procedure Rules

## 1. INTRODUCTION

- 1.1 The Planning Code of Conduct has been adopted by Tower Hamlets Council to regulate the performance of its planning functions. Its major objectives are to guide Councillors and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally of the standards adopted by the Council in the exercise of its planning powers.
- 1.2 The Planning Code of Conduct is in addition to the Code of Conduct for Members adopted under the provisions of the Localism Act 2011. Councillors should follow the requirements of the Code of Conduct for Members and apply this Code in light of that Code. The purpose of this Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters.
- 1.3 Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions. The Code is also designed to assist Councillors in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.
- 1.4 This Code applies to Councillors at all times that they are involved in the planning process. This would include, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 1.5 This Code is part of the Council's ethical framework and in addition to the Code of Conduct for Members should be read in conjunction with the Member/Officer Protocol. If a Councillor does not abide by the Code then that Councillor may put the Council at risk of proceedings on the legality or maladministration of the related decision and the Councillor may be at risk of either being named in a report to the Standards Advisory Committee or Council. A failure to abide by the Code is also likely to be a breach of the Code of Conduct for Members and which could result in a complaint being made to the Monitoring Officer.
- 1.6 **If a Councillor has any doubts about the application of this Code to their own circumstances they should seek advice early, from the Monitoring Officer and preferably well before any meeting takes place.**

## 2. PREDISPOSITION, PREDETERMINATION OR BIAS

- 2.1 Section 25 of the Localism Act 2011 ('the 2011 Act') provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 2.2 As to predetermination, this is a legal concept and is used in situations where a decision maker either has, or appears to have, a closed mind. That is they have made up their mind in advance of proper consideration of an issue and the merits of an application. Section 25 of the 2011 Act does not amount to the abolition of the concept of predetermination however, as no one should decide a case where they are not impartial or seen to be impartial. Critically, Councillors need to avoid any appearance of bias or of having a predetermined view before taking a decision. Indeed, Councillors should not take a decision on a matter when they are actually biased in favour or against the application, or where it might appear to a fair and informed observer that there was a real possibility of bias, or where a Councillor has predetermined the matter by closing their mind to the merits of the decision.
- 2.3 Any planning decision made by a Councillor who can be shown to have approached the decision with a closed mind will expose the Council to the risk of legal challenge.
- 2.4 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition).
- 2.5 If a Councillor considers that they do have a bias or cannot be impartial then they **must** withdraw from considering that application.
- 2.6 Councillors should note that, unless they have a disclosable pecuniary interest or a significant personal interest (see section 3 below), they will not appear to be predetermined through-
- listening or receiving viewpoints from residents or other interested parties;

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

## 2.7 The following advice applies:

- Councillors must not make up their mind, or appear to have made up their mind on how they will vote on any planning matter prior to formal consideration of the matter at the meeting of the Committee and of the Councillor hearing the officer's presentation and evidence and arguments on both sides. This includes deciding or discussing how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so. If a Councillor has an interest in a local lobby group or charity or pressure group they may appear predetermined by their actions and/ or statements made in the past. The Councillor should take advice from the Legal Adviser to the Committee on how to deal with this.
- It must be noted that if a Councillor is predetermined then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or predetermination or, a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- A Councillor may appear pre-determined where the Council is the landowner, developer or applicant and the Councillor has acted as, or could be perceived as being, a chief advocate for the proposal. This would amount to more than a matter of membership of both the Cabinet and Development Committee, but that through the Councillor's significant personal involvement in preparing or advocating the proposal the Councillor will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits. (See Section 6 below for guidance on applications submitted by the Council).
- Councillors should recognise that in being a Councillor of a political group they are allowed to be predisposed in relation to planning policies of the Council or to planning policies of the Councillor's political party, providing that predisposition does not give rise to a public perception that the Councillor has due to his/ her political membership



predetermined a particular matter. (See Section 7 below relating to Lobbying).

- When considering a planning application or any other planning matter Councillors must:
  - act fairly and openly;
  - approach each planning issue with an open mind; carefully weigh up all relevant issues; and
  - determine each item on its own planning merits
- And Councillors must not:
  - take into account irrelevant issues;
  - behave in a manner that may give rise to a public perception that they may have predetermined the item; and
  - behave in such a manner which may give rise to a public perception that they may have been unduly influenced in reaching a decision.

### **3. INTERESTS**

- 3.1 In order to avoid allegations of bias it is important that Councillors are scrupulous in declaring interests at the meeting.
- 3.2 Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests ('DPI') and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of DPI taken from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are set out in paragraph 5.1 of the Members' Code of Conduct. A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes. A failure to register or declare a DPI or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a Councillor has a DPI, are criminal offences.
- 3.3 A DPI relating to an item under discussion requires the immediate withdrawal of the Councillor from the Committee. In certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business and which could arise where the Councillor is the applicant or has made a representation for or against the application.
- 3.4 Having regard to the requirement that a Councillor who has an interest in an application must be disqualified from considering it, then consideration must also be given to personal interests. A personal interest in a matter arises if a

Councillor anticipates that a decision on it might reasonably be regarded as affecting (to a greater extent than other council tax payers, ratepayers or residents of the Tower Hamlets) the well-being or financial position of the Councillor, a relative or a friend or

- the employment or business carried out by those persons, or in which they might be investors (above a certain level)
- any of the bodies with which the Councillor is associated, and which the Councillor will have registered in the register of interests.

3.5 If a Councillor has a personal interest in any planning then the Councillor shall, if present, disclose the existence and nature of the interest at the start of the meeting and, in any event, before the matter is discussed or as soon as it becomes apparent. The full nature of the interest must be declared. If, in accordance with the Members' Code of Conduct, the interest is 'sensitive', the Councillor must disclose to the meeting that they have an interest that is sensitive but need not disclose the nature of the interest or any other sensitive information. The declaration and disclosure of a personal interest does not usually debar a Councillor from participation in the discussion provided that the personal interest is not so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest (see 3.6 below).

3.6 The position is different however where a member of the public, with knowledge of the relevant facts, would reasonably regard the personal interest as so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest. Examples of this are the Councillor is working closely with a developer or a group of objectors to achieve a certain outcome; lobbying other Councillors on the Committee; acting as an agent for a person pursuing a planning matter with the Council; or generally declaring voting intentions ahead of the meeting etc.

3.7 A Councillor with a personal interest which might appear to a fair and informed observer that there was a real possibility of bias must not participate in the discussion on the application and must leave the room immediately when the discussion on the item begins or as soon as the interest becomes apparent. They cannot seek to influence the decision, save that if a member of the public has the right to attend the meeting, make representations, answer questions etc., then a Councillor will have the same right. Once the Councillor has exercised that right then the Councillor must withdraw from the room for the rest of that item and play no further part in the discussion or vote.

3.8 Being a Councillor for the ward in which particular premises is situated is not necessarily declarable and as a general rule Councillors of the Committee may deliberate on matters affecting their wards provided they do so with an open mind. Councillors should remember, however, that their overriding duty is to the whole community not just to the residents and businesses within their

ward. Councillors have a duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality. If a Councillor considers that it is appropriate to make representations for their ward then the Councillor can declare this and make representations and must not participate in the debate and vote. It may be that by remaining in the Committee room during the debate and vote that a reasonable person could perceive that the Councillor was seeking to influence the decision by their continued presence. In deciding therefore whether to remain, Councillors, especially Executive Members or the Mayor, should consider the perception that their continued presence could cause.

- 3.9 More information on what constitutes an interest as well as the obligation on Councillors to register their interests is contained in the Code of Conduct for Members set out in Part B Section 31 of the Constitution. The ultimate responsibility for fulfilling these requirements rests with individual Councillors but the Council's Monitoring Officer or the Divisional Director Legal are available to give advice if required.
- 3.10 Further, at Appendix C, there are a series of What Ifs and which will assist in Councillors determining whether they have a personal interest which they should declare and whether it could give rise to a reasonable observer in possession of the facts considering that the Councillor would be biased or would be unable to be impartial.

#### **4. TRAINING OF COUNCILLORS**

- 4.1 As the technical and propriety issues associated with planning are not straightforward, Councillors who sit on either the Development Committee or the Strategic Development Committee must participate in a programme of training on the planning system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. If a Councillor fails to participate in the compulsory elements of the training this may result in that Councillor being asked to stand down as a Councillor of relevant Committee.
- 4.2 Councillors should be aware that training is particularly important for those who are new to the Development Committee and for Councillors who have not attended training in the recent past. Other Councillors are free to attend the training in order to gain an understanding of planning issues.
- 4.3 The compulsory training programme will cover issues relating to probity in planning, principles in planning to reflect government guidance and case law. Discretionary training will seek to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice, Development Plans and best practice. The aim of the training is to assist Councillors in carrying out their role properly and effectively.

- 4.4 Where a Councillor has a genuine difficulty in attending any particular training session officers will try, when practicable, to accommodate a request for an individual or repeat session.

## **5. APPLICATION BY A COUNCILLOR OR OFFICER**

- 5.1 Councillors may need to determine an application submitted by or made on behalf of a Councillor or an officer, or by a company or individual with which a Councillor or officer has an interest or relationship. For the avoidance of doubt, the term Councillor or an officer includes any former Councillors or officers. In such cases, it is vital to ensure that such application is handled in a way that gives no grounds for accusations or favouritism. Accordingly the matter will be dealt with as follows-

- (a) The matter will be referred to the Corporate Director, Place, who shall decide whether or not the application should be referred to the relevant Committee, or determined under delegated powers, if the application is in accordance with development plans and all other material planning considerations.
- (b) On receipt of such an application, the Corporate Director, Place will pass a copy of the application to the Monitoring Officer who will satisfy himself/herself that the application can be, and is being, processed and determined without suspicion or impropriety.
- (c) If a Councillor or an officer submit their own proposal to the Council which they serve, they must take no part in its processing or the decision making process.
- (d) The Councillor making the application would almost certainly have a DPI and should not address the Committee as the applicant but should appoint an independent agent to represent their views.
- (e) Councillors of the Committee must consider whether the nature of any relationship with the person (either a Councillor or an officer) applying for planning permission requires that they make a declaration of interest and if necessary also withdraw from the meeting.
- (f) In respect of former Councillors or former officers the above requirements shall apply for a period of three (3) years following their departure from the Council.

- 5.2 The onus is on the Councillor or Officer to bring to the attention of the Corporate Director, Place that they are personally involved in an application as well as the nature of that involvement.

## **6. APPLICATION BY THE COUNCIL**

- 6.1** Councillors may need to determine an application submitted by or on behalf of the Council for the Council's own development. It is perfectly legitimate for such proposals to be submitted to and determined by the Local Planning Authority. Proposals for such development should be treated with the same transparency and impartiality as those of private developers so as not to give rise to suspicions of impropriety. In the interests of transparency, the Committee Report will clearly state that the application is made by or on behalf of the Council.
- 6.2** If a Councillor has been heavily committed or involved in an area of policy/issue relating to such an application (e.g. as a Cabinet Member), then that Councillor must consider whether they have an interest which should be disclosed. In such circumstances, the Councillor should seek advice from the Legal Adviser to the Committee

## **7. LOBBYING**

- 7.1** Lobbying is the process by which applicants and their agents, objectors, non-Committee Councillors and other interested parties seek to persuade Councillors who sit on the Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Councillors who sit on Committee as these discussions can help Members to understand the issues and concerns. This can happen prior to an application being made or at any time after the application is made.
- 7.2** Whilst lobbying is a normal and perfectly proper part of the political process, it can cause the perception of bias or predetermination especially when a Councillor must enter the meeting with an open mind and make an impartial determination on the relative merits based on all the evidence presented at the meeting. To avoid such perception if a Councillor is approached they should following the principles set out in section 2.6 of this Code and also:
- (a) explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee;
  - (b) explain the procedures by which representations can be made;
  - (c) explain the kinds of planning issues that the Council can take into account;
  - (d) inform the person making the approach that such approach should be made to officers within the Place Directorate or to elected Councillors who are not Councillors of the either the Development Committee or Strategic Development Committee;
  - (e) forthwith notify in writing to the Monitoring Officer the fact that such an approach has been made, identifying the application, the nature of the approach, by whom it was made, and the action taken by the Councillor concerned. This should include any offers made of planning gain or

constraint of development, through a proposed section 106 Planning Obligation or otherwise; and

- (f) keep an adequate written record so as to enable the Councillor to disclose the fact and nature of such an approach at any relevant meeting of the Committee.

**7.3** If the Councillor does discuss the case then in no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and detrimental. As stated in 7.2(c) above, the Councillor must keep an adequate written record of the discussion so as to enable the Councillor to disclose the fact and nature of such an approach at any relevant meeting of the Development Committee.

**7.4** Councillors should not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, then the Councillor must comply with the provisions in the Code of Conduct for Members on Gifts and Hospitality.

**7.5** Councillors should not become a member of, lead or represent a national charity or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Councillor does then it is likely to appear to a fair and informed observer that there is a real possibility of bias and that Councillor will be required to withdraw from the debate and decision on that matter.

**7.6** Where Councillors contact fellow Councillors regarding their concerns or views they must not seek to attempt to persuade or put pressure on the Councillor that they should vote in a particular way.

**7.7** In no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and detrimental.

**7.8** Where a Committee member feels that they have been unreasonably or excessively lobbied on a particular proposal they must make a declaration at the Committee on that application that they have been lobbied. Provided that member has followed the principles in this Code then they will still be able to speak and vote on the application.

## **8. PRE-MEETINGS, PRESENTATIONS AND BRIEFING SESSIONS**

- 8.1** Councillors should avoid agreeing to any formal meeting with applicants, developers or groups of objectors. If a Councillor considers that a formal meeting would be useful in clarifying the issues, then the Councillor should not seek to personally arrange such a meeting but should request the Divisional Director Planning and Building Control to organise it and a planning officer will attend any such meeting. This ensures that if such a meeting takes place then it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee. The Councillor should take no other person to the meeting unless that person is that Councillor's carer.
- 8.2** If a Councillor does arrange a private meeting with an applicant, developer, agent or objector then this must be declared at the Development Committee meeting by the Councillor. The Councillor should also arrange to be accompanied by a planning officer and they should take no other person to the meeting unless that person is that Councillor's carer. As in Section 7.2(c) above, the Councillor should keep an adequate written record of the meeting. This record should then be referred to the Divisional Director Planning and Building Control to organise it so that it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.
- 8.3** Where there is to be a presentation by applicants/ developers, Councillors should not attend unless it has been organised by an officer. If a Councillor does attend a presentation not organised by officers then the Councillor must inform the Divisional Director Planning and Building Control that they have done so. The Councillor should keep an adequate written record of the presentation. This record should then be referred to the Divisional Director Planning and Building Control to organise it so that it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.
- 8.4** When Councillors attend presentations, they should ask relevant questions to clarify their understanding of the proposal. Councillors should be mindful, however, that the presentation is not part of the formal process of debate and determination of any subsequent application and that this will be carried out by the appropriate Development Committee.
- 8.5** Councillors should bear in mind that a presentation is a form of lobbying and they must not express any strong view or state how they or other Councillors might vote. Further Councillors are reminded that if they do attend a presentation then any hospitality or gifts received over the value of £25.00 must be disclosed and registered in the normal way.

- 8.6** Public meetings are sometimes organised as part of the Council's pre-application process (contained in the Council's Planning tool kit). All Councillors are encouraged to participate in such pre-application discussions.
- 8.7** Further where briefing sessions (generally for major applications) have been arranged (by officers) for Councillors following submission of an application then Councillors should attend these sessions as it will give them an opportunity to better understand the Council's planning policies and its economic objectives.
- 8.8** Councillors should note that the Code of Conduct of Member and this Code apply to any of the above meetings, presentations or briefing sessions and that at any subsequent Committee considering the application that Councillors must disclose attendance at any such meetings and/ or presentations.

## **9. SITE VISITS**

- 9.1** Site visits by Councillors determining schemes are an essential part of determining a planning application. It is good practice for Councillors to visit an application site before a meeting, so that they can familiarise with the site or surrounding area and Councillors should try to attend the pre-Committee site visits organised by officers. A site visit may also assist Councillors in matters relating to the context of the application and the characteristics of surrounding area. Whilst Councillors can make comments and ask appropriate questions during the site visit they should avoid expressing opinions which can cause the perception of bias or predetermination. Further Councillors shall not make a decision whilst on site. Councillors can, of course, rely upon their own local knowledge.
- 9.2** During site visits, Councillors of the Planning Committees shall not engage individually in discussion with applicants or objectors.
- 9.3** On site visits applicants, developers, objectors or other interested parties who attend shall only be permitted to point out to Councillors features to look at either on the site or in the vicinity, which are relevant to the application. No discussion will take place on the merits of the application.
- 9.4** Should it is not possible for a Councillor to attend an organised site visit and a Councillor then carries out a site visit on their own, the guidelines below apply-
- The Councillor must notify the Divisional Director Planning and Building Control of the intention to visit (which will be recorded on the file).
  - The Councillor must carry out the visit discreetly and the Councillor must not make himself/ herself known to the applicants or neighbours.



- The Councillor must treat the site visit as an opportunity to seek information and to observe the site only. The Councillor must not use the site visit as or allow it to become an impromptu lobbying opportunity for the applicant or objectors.
- Councillors should not hear representations from the applicant or any other party and the Councillor shall have regard to the provisions on Lobbying in Section 7 above, and advise them that they may make representations in writing to the Council and direct them to relevant officers.
- Councillors must not express opinions or views on the application to anyone as this may lead to an allegation of apparent bias or pre-determination.
- Councillors should note that the Code of Conduct for Members and this Code apply to any such visit.

**9.5** As in Section 7.2(c) above, the Councillor should keep an adequate written record of the site visit, including any new information gained from such visit. This record should then be referred to the Divisional Director Planning and Building Control to organise it so that it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.

**9.6** Once the application has reached the determination stage, Councillors should not request a site visit unless the Councillor considers that it is really necessary, and the Committee may decide to revisit the site where particular site factors are significant in terms of the weight attached and it would be difficult in the absence of a site visit to assess the application or there are significant policy or precedent implications and specific site factors need to be carefully addressed.

## **10. THE ROLE OF THE EXECUTIVE**

**10.1** The Executive consists of 10 people, namely the Mayor and 9 Councillors. Each of the 9 Councillors has a specific Portfolio and one of those Portfolios is Strategic Development. The Mayor is responsible for most decisions about day-to-day Council services but this excludes the regulatory council functions such as planning.

**10.2** Councillors on the Planning Committees have specific responsibility for planning. However, planning is important to all Councillors and can help deliver other local objectives. Further, planning takes account of wider, long-term public interests including the environment, economic growth and prosperity, a cohesive and empowered society, good health and wellbeing, enhancement of heritage, conservation, local culture and community identity.

- 10.3 The Executive therefore has an interest in Strategic Planning: hence the Member of the Executive with the Strategic Development portfolio. As such, the Mayor, the lead Member and other Members of the Executive may be approached regarding or become involved in planning applications. This is perfectly acceptable but where the Mayor, the lead Member or other Members of the Executive are approached or become involved then this Code of Conduct also applies to them, particularly paragraphs 6, 7, 8 and 10. Further, they should not attend the pre-Committee site visits organised by officers unless they sit on the Planning Committee.
- 10.4 Additionally, Councillors of the Executive should not meet to discuss how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so.

## **11. RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

- 11.1 Councillors shall not attempt in any way to influence the terms of the officers' reports upon any application including a particular recommendation. Officers are advising Councillors. They must give impartial policy advice on planning considerations and the recommendations as set out in the report without seeking to persuade Councillors. (This does not prevent a Councillor from asking questions or submitting views to the Divisional Director Planning and Building Control, which may be incorporated into any Committee report).
- 11.2 Any criticism by Councillors of an officer in relation to the handling of any application should be made in writing to the Corporate Director, Place and/ or the Monitoring Officer rather than to the Officer handling the application.
- 11.3 If any officer feels or suspects that pressure is being exerted upon him/her by any Councillor in relation to any particular application, they shall forthwith notify the matter in writing to the Monitoring Officer.
- 11.4 If any officer of the Council who is involved in dealing with any application has had any involvement with an applicant, developer or objector, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare this interest in the public register held by the Monitoring Officer and take no part. This public register is to be available for inspection at the Development Committee meeting.
- 11.5 No officer of the Council shall engage in any paid work for any planning matter for which Tower Hamlets is the Planning Authority other than on behalf of the Council.

## **12. CONDUCT AT THE COMMITTEE**

- 12.1** Councillors must not only act fairly but must also be seen to act fairly. Councillors must follow agreed procedures (at all times and should only ask questions at the appropriate points in the procedure. At no time should a Councillor express a view which could be seen as pre-judging the outcome. During the course of the meeting Councillors should not discuss (or appear to discuss) aspects of the case with the applicant, a developer, an objector, their respective advisers or any member of the public nor should they accept letters or documents from anyone other than an officer from Democratic Services or the Legal Advisor to the Committee.
- 12.2** Councillors of the Committee shall refrain from personal abuse and party-political considerations shall play no part in the Committee's deliberations. Councillors shall be respectful to the Chair and to each other and to officers and members of the public including applicants, developers, objectors and their representatives and shall not bully any person.
- 12.3** When asking questions at a meeting, Councillors shall ensure that their questions relate only to planning considerations relevant to the particular application.
- 12.4** The Committee must ensure that they hear the evidence and arguments for and against the application and approach each planning issue with an open mind.
- 12.5** If a Councillor arrives late for a meeting, they will not be able to participate in any item or application already under discussion. Similarly, if a Councillor has to leave the meeting for any length of time, they will not be able to participate in the deliberation or vote on the item or application under discussion at the time of their absence. If a Councillor needs to leave the room, they should ask the Chair for a short adjournment
- 12.6** It is permissible for the Chair of the meeting to curtail statements of parties if they are merely repeating matters which have already been said.
- 12.7** In considering the application, Councillors are advised that if objections are founded on a demonstrable misunderstanding of the true factual position, or otherwise indicate no more than an uninformed reaction to a proposal then such carry no weight whatever and must be ignored. Further Councillors are advised that the mere number of objections irrespective of their content can never be a good reason for refusing an application. What matters are the grounds on which such are based.

### **13. DECISION MAKING**

- 13.1** When a report goes before the Committee rather than being determined through officer delegation, the reasons why will be set out in the report to the Committee.

- 13.2** Councillors must come to meetings with an open mind and in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2007 and section 70(2) of the Town and Country Planning Act 1990, Councillors must make decisions in accordance with the Development plan unless material considerations indicate otherwise.
- 13.3** Councillors should only come to their decision after due consideration of all of the relevant information reasonably required upon which to base a decision. If it is considered that there is insufficient time to digest new information or that there is simply insufficient information before Councillors then Councillors can request that further information be provided and, if necessary, defer or refuse the application.
- 13.4** Councillors must not take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officers' introduction to the matter. If an application has previously been deferred then the same Councillors will be asked to reconsider the application when it is returned to Committee.
- 13.5** Where Councillors take a decision to defer any proposal then the reasons for Committee's decision must be given and recorded.
- 13.6** When a Councillor is proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan then they must clearly identify and understand the planning reasons leading to this conclusion/ decision. These reasons must be given prior to the vote and be recorded. The Councillor must be aware that they may have to justify the resulting decision by giving evidence in Court or at Enquiry in the event of any challenge. Further advice on this is set out in the Development Procedure Rules at Appendix B.
- 13.7** Prior to deciding the matter before the Committee, Councillors must consider the advice that planning, legal or other officers give to the Committee with respect to the recommendation or any proposed amendment to it.
- 13.8** **At the end of the day, Councillors must bear in mind that they are involved in planning matters to represent the interests of the whole community and must maintain an open mind when considering planning applications. When Councillors take decisions on planning applications they must do so in accordance with the development plan unless material considerations indicate otherwise. Councillors must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.**

#### **14. RECORD KEEPING**

**14.1** In order that planning applications are processed properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interests by Councillors. Records will be kept in accordance with the Council's Information Governance Framework and, specifically, the Council's Records Management Policy.

## **15. DOS AND DO NOT'S**

**15.1** Councillors must:

- (a) Attend compulsory training sessions;
- (b) Be open minded and impartial;
- (c) Declare any actual interest;
- (d) Act solely in the public interest;
- (e) Listen to the arguments for and against;
- (f) Carefully weigh up all relevant issues;
- (g) Ask questions that relate only to planning considerations relevant to the particular application;
- (h) Make decisions on merit and on material planning considerations only;
- (i) Respect the impartiality and integrity of the Council's officers;
- (j) Report any lobbying from applicants, agents, objectors or any other Councillor;
- (k) Promote and support the highest standards of conduct; and
- (l) Promote equality and not discriminate unlawfully against any person, and treat all people with respect.

**15.2** Councillors must not:

- (a) Be biased or give the impression of being biased;
- (b) Improperly confer an advantage or disadvantage on any person nor seek to do so;
- (c) Act to gain financial or other benefit for themselves, their family, friends or close associates;
- (d) Place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a Councillor (e.g. by accepting gifts or hospitality from any person involved in or affected by a planning proposal);

- (e) Place themselves in a position where their integrity might reasonably be questioned;
- (f) Participate in a meeting where they have a DPI;
- (g) Participate in a meeting where they have an interest which does or could be reasonably considered as giving rise to bias; and
- (h) Express opinions during site visits to any person present, including other Councillors.

## 16 WHAT IF?

### 16.1 Examples

1. What if you have a good friend who lives next door to the premises in respect of which there is an application and the friend has objected?  
**Would be considered predetermined – do not participate**
2. Now what if your spouse/ significant other is a good friend of that person?  
**Would be considered predetermined – do not participate**
3. Now what if you know the person casually but they are not a good friend?  
**Could be considered predisposed – could still determine with open mind – declare interest but can still participate**
4. Now what if person works in the same organisation as you and you may say hi occasionally but there is no other interaction?  
**Could not be considered predisposed – can determine with open mind – nothing to declare**
5. What if you are a member of the Board of THH and the application is by or on behalf of THH?  
**Firstly, not a DPI as membership of the Board does not amount to an office carried on for profit or gain – Could be considered predisposed or predetermined due to membership of Board however – This is dependent on nature of the application and is a matter of whether the application can be determined with an open mind – If the application has not been discussed at the Board or is not relevant to Board projects then likely to be considered predisposed and therefore declare the interest but you can still participate in the meeting – If however application was discussed at the Board or is relevant to projects discussed at the Board then likely to be considered predetermined and therefore declare an interest and do not participate**

## 17. GUIDANCE/ PROCEDURE NOTES

- 17.1 Appendix A to this Code of Conduct is the Council's Guidelines for determining planning applications. This is set out in Part D Section 53 of the Constitution.
- 17.2 Appendix B to this Code of Conduct sets out the Development Procedure Rules that apply to all meetings of the Development Committee, Strategic Development Committee and Council in relation to the determination of planning applications. This is set out in Part D Section 53 of the Constitution.

## 36 Financial Regulations and Procedure Rules

### CONTENTS

<b>Section</b>	<b>Subject</b>
<b>1</b>	Introduction
<b>2</b>	Part A – General
	Part B – The Financial Control Framework
	Part C – Financial Planning
	Part D – Financial Management
	Part E – Risk Management and Control of Resources
	Part F – Financial Administration
	Part G – External Arrangements
<b>Part D – the following sections are in Part D of the Constitution</b>	
<b>3</b>	Scheme of Financial Delegation
<b>Appendix A</b>	Other Financial Guidelines
<b>Appendix B</b>	Glossary and Abbreviations
<b>External Reference</b>	
	Financial Procedures Manual



## Section 1 – Introduction

The purpose of these Financial Regulations (Regulations) is to provide the governance framework for managing the Council's financial affairs.

To conduct its activities efficiently, a local authority needs to ensure it has sound financial management policies in place and which are strictly adhered to. Part of this process is to establish Financial Regulations that set out the financial policies of the authority. The Financial Regulations are underpinned by detailed financial procedures.

Financial Regulations provide clarity about the financial responsibilities of individuals within the organisation. All individuals engaged on Council activities are responsible for ensuring that their actions comply with the objectives specified in the financial and procurement procedures.

In compiling these regulations and procedures the objective has been:

- To provide advice on how to undertake the financial aspects of your duties;
- To disseminate best practice throughout the Council;
- To ensure consistency; and
- To ensure legal requirements are adhered to.

To do this, the regulations set out the Council's requirements in respect of:

- financial management roles and responsibilities
- financial planning and budgeting
- financial monitoring and control
- internal control and audit
- financial systems and procedures
- external arrangements

The procedures have been developed by the council's Finance Department and have been the subject of extensive consultation. However, it is impossible for the procedures to cover every eventuality and an element of interpretation may be necessary. If further advice is required, please contact your Directorate Finance Business Partner. The business partnering model and the term Finance Business partner (FBP) describes a broad range of skills exhibited by individuals at different levels depending on customer requirements; in Tower Hamlets these people may be described variously as Strategic Heads of Finance, Finance Managers, Senior Accountants etc.

The Corporate Director, Resources is responsible for the administration of the Council's financial affairs. As part of her/his duties, s/he will, when s/he considers it

appropriate, issue Financial Regulations/ Procedures which are the rules governing the management of the Council's financial resources. S/he will ensure that the Regulations/ Procedures and any updated or amended versions are made available to all chief officers, the Mayor and Members of the Council. These Regulations/ Procedures and any updated or amended versions will then be placed in Appendix A of these Rules.

It is the responsibility of all Chief Officers to comply personally with Financial Regulations/ Procedures and to ensure that all officers within their Directorate with financial responsibilities also comply with them. Failure to comply with Financial Regulations/ Procedures is likely to constitute a disciplinary offence and be investigated under the appropriate disciplinary procedure.

### **Compliance CIPFA Guidance for Local Government**

Local government finance in the UK is governed by primary legislation, regulation and professional standards set by CIPFA. As a matter of principle, the Council will conduct its financial affairs in accordance with accepted standard practice embodied by CIPFA's Code of Practice framework. This includes:

- CIPFA Treasury Management in the Public Services Code of Practice
- CIPFA Code of Practice on Local Authority Accounting
- CIPFA/SOLACE guidance 'Delivering Good Governance in Local Government'
- CIPFA's Audit Committees – Practical Guidance for Local Authorities
- CIPFA's Code of Practice for Internal Audit in Local Government

To date, the general financial management of a local authority, has not been supported by a professional code. CIPFA is now proposing that a Financial Management Code (CIPFA FM Code) should be designed and developed to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. The CIPFA FM Code would therefore for the first time set standards of financial management for local authorities in the UK. The Council is committed to developing financial management arrangements that align to the proposed CIPFA FM Code.

## Section 2 – Financial Regulations

### A: General

<b>A1</b>	<b>Application</b> <ol style="list-style-type: none"><li>1. Financial regulations provide the framework for managing the Council’s financial affairs. They apply to the Mayor, every elected Member and officer of the Council and anyone acting on its behalf.</li><li>2. The Mayor, all Members, staff, agents and consultants have a general responsibility for taking action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.</li></ol>
<b>A2</b>	<b>Delegation</b> <ol style="list-style-type: none"><li>1. The Constitution of the Council sets out the main delegations and these Regulations identify the additional financial delegations that the Council has decided to make to its officers. The Constitution of the Council also includes the Financial Procedure Rules.</li><li>2. Where decisions have been delegated, references to the Senior Manager refers to these delegations. No other delegations should be inferred from these Regulations.</li><li>3. A ‘Senior Manager’ for the purpose of these Regulations means the Head of Paid Service, Corporate Directors, Service Heads, and Budget Managers unless otherwise specified in these Regulations</li><li>4. The Council operates a system of devolved financial responsibility under which Directorates administer their financial affairs.</li><li>5. A written record should be maintained of all corporate and directorate schemes of delegation which form part of the Council’s Constitution. This should include the delegated financial powers exercised by specified Council Officers, such as the power to incur costs on behalf of the Council. A scheme of Financial Delegation is set out in Section 3 of these Financial Regulations.</li><li>6. Delegation empowers junior officers, but ultimate managerial accountability remains with the Senior Manager taking a decision under delegated authority.</li></ol>
<b>A3</b>	<b>All staff to have access to Financial Regulations</b> <ol style="list-style-type: none"><li>1. Senior Managers are responsible for ensuring that all staff in their</li></ol>

	Directorate or Service Area are aware of the existence and content of the Council's financial regulations and other internal regulatory documents and that they comply with them.
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## **B: The Financial Control Framework**

<b>B1</b>	<b>Full Council</b>  1. Full Council is responsible for approving the Budget and Policy Framework within which the Executive operates.  2. Full Council is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Council's Constitution and Code of Corporate Governance.
<b>B2</b>	<b>The Executive</b>  1. The Executive is responsible for proposing the policy framework and budget to the full Council, and for discharging executive functions in accordance with the budget policy framework as contained in the Constitution.  2. In making any decision, the Executive must take account of legal and financial liabilities and risk management and other relevant issues that may arise from the decision.  3. The Executive is responsible for specifying the limits within which officers have delegated authority to make decisions. These thresholds are as set out in section B10 of these Regulations.
<b>B3</b>	<b>Overview and Scrutiny</b>  1. The Overview and Scrutiny Committee is responsible for scrutinising executive decisions and for holding the executive to account. The Committee is also responsible for making recommendations on future policy options and for reviewing general policy and service delivery of the authority.
<b>B4</b>	<b>Audit Committee</b>  1. The Audit Committee is the Committee charged with scrutinising the financial governance and system of internal controls of the authority.  2. The Audit Committee has right of access to all the information it considers necessary and can consult directly with internal and external auditors.

	<ol style="list-style-type: none"> <li>3. The Audit Committee is responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report.</li> <li>4. The Audit Committee is responsible for approving the Statement of Accounts of the authority.</li> <li>5. The Audit Committee is responsible for scrutinising the Treasury Management report.</li> </ol>
<b>B5</b>	<p><b>Chief Executive/Head of Paid Service</b></p> <ol style="list-style-type: none"> <li>1. The Chief Executive/Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole.</li> <li>2. The Chief Executive/Head of Paid Service must report to and provide information for the Executive, the full Council, the Overview and Scrutiny Committee and other Committees.</li> <li>3. The Chief Executive/Head of Paid Service is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.</li> <li>4. The Chief Executive/Head of Paid Service is also responsible for ensuring that all decisions made by the Executive and the reasons for them are made public. They must also ensure that Council Members are aware of decisions made by the Executive and of those made by officers who have delegated executive responsibility.</li> </ol>
<b>B6</b>	<p><b>Monitoring Officer</b></p> <p>The Council's Monitoring Officer is responsible for:</p> <ol style="list-style-type: none"> <li>1. Promoting and maintaining high standards of ethical conduct and provides support to the Standards Committee.</li> <li>2. Reporting any actual or potential breaches of the law or maladministration to the Full Council and/or the Executive.</li> <li>3. Advising all Councillors and officers about who has authority to take a particular decision.</li> <li>4. Advising the Executive or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the Budget &amp; Policy Framework.</li> <li>5. Maintaining an up-to-date constitution.</li> </ol>

<b>B7</b>	<p data-bbox="280 230 783 264"><b>Corporate Director of Resources</b></p> <p data-bbox="280 304 1315 412">The Corporate Director, Resources is the officer responsible for financial administration under s.151 of the Local Government Act 1972 and is responsible for:</p> <ol data-bbox="280 450 1398 1917" style="list-style-type: none"> <li data-bbox="280 450 1206 483">1. The proper administration of the Council's financial affairs.</li> <li data-bbox="280 521 1265 589">2. Setting and monitoring compliance with financial management standards.</li> <li data-bbox="280 627 1339 694">3. Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.</li> <li data-bbox="280 732 1342 766">4. Providing financial information in conjunction with Senior Managers.</li> <li data-bbox="280 804 1398 1032">5. Ensuring that the annual statement of accounts is prepared in accordance with International Financial Reporting Standards, the Code of Practice on Local Authority Accounting and the Service Reporting Code of Practice within the statutory deadlines. This includes producing a timetable and a closure manual which specifies the information required to enable the accounts to be produced.</li> <li data-bbox="280 1070 1321 1137">6. To liaise with External Audit on the completion of the Statement of Accounts and the arrangements for the audit of these.</li> <li data-bbox="280 1176 1366 1243">7. To ensure that working papers are prepared to support the statement and these are sufficient to meet the needs of external audit.</li> <li data-bbox="280 1281 1366 1348">8. To sign and date the Statement of Accounts, stating that these give a true and fair view of the financial position of the Council.</li> <li data-bbox="280 1386 1214 1420">9. To ensure the Accounts are approved by Audit Committee.</li> <li data-bbox="280 1458 1350 1525">10. Preparing the revenue budget and capital programme relating to the General Fund and the Housing Revenue Account.</li> <li data-bbox="280 1563 1278 1682">11. Ensuring that reports requesting decisions of Members include appropriate statements as to the financial and use of resources implications of the matter under consideration.</li> <li data-bbox="280 1720 711 1753">12. Treasury management.</li> <li data-bbox="280 1792 1358 1910">13. Section 114 of the Local Government Finance Act 1988 requires the Corporate Director, Resources to report to the full Council, executive and external auditor if the authority or one of its officers:</li> </ol>

	<ul style="list-style-type: none"> <li>i. has made, or is about to make, a decision which involves incurring unlawful expenditure.</li> <li>ii. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council.</li> <li>iii. is about to make an unlawful entry in the authority's accounts.</li> </ul> <p>14. Section 114 of the 1988 Act also requires the Corporate Director of Resources to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.</p> <p>15. Selecting accounting policies and ensuring that they are applied consistently.</p> <p>16. Determining the accounting procedures and records for the authority.</p> <p>17. Issuing advice and guidance to underpin the Financial Regulations.</p> <p>18. Maintaining a continuous review of the Financial Regulations and issuing updates as necessary.</p> <p>19. In conjunction with Senior Managers reporting breaches of the Financial Regulations to the Audit Committee.</p> <p>20. Preparing reports to Corporate Management Team and the Executive to set the Cabinet Thresholds for reporting specific financial issues to the Executive.</p>
<b>B8</b>	<p><b>Corporate Directors, Divisional Directors and Service Heads (Senior Managers)</b></p> <p>Corporate Directors, Divisional Directors and Service Heads are responsible for:</p> <ul style="list-style-type: none"> <li>1. Ensuring that the Executive are advised of the financial implications of all proposals and that the financial implications have been agreed by the Corporate Director of Resources.</li> <li>2. Signing contracts on behalf of the Council.</li> <li>3. The exercise of budgetary control.</li> <li>4. Consulting with the Corporate Director, Resources to seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.</li> <li>5. Ensuring that matters requiring a decision by Members are drawn to the attention of the Corporate Director, Resources before any such</li> </ul>

	decision is taken.
<b>B9</b>	<p><b>The Finance Business Partners</b></p> <ol style="list-style-type: none"> <li>1. The Finance Business Partners report directly to the Divisional Director of Finance, Procurement and Audit through to the Corporate Director of Resources.</li> <li>2. The Finance Business Partner is responsible for informing the Corporate Director, Resources of any issue which may have implications for the exercise of the Corporate Director's responsibilities under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.</li> <li>3. The Finance Business Partner is responsible for ensuring Directorate compliance with the Financial Regulations, Schemes of Financial Delegation, the Procurement Procedures and other instructions and guidance issued by the Corporate Director of Resources.</li> </ol>
<b>B10</b>	<p><b>Individual Members of the Council</b></p> <p>No financial decisions are delegated to individual Members of the Council under these Regulations, and no individual Member may instruct any officer to act in any particular way or to take any decision without the authority of the Full Council or the delegated authority of the Executive.</p>
<b>B11</b>	<p><b>Cabinet Reporting Thresholds</b></p> <p>The following thresholds have been set by the Executive for reports to be submitted to Cabinet/the Executive for approval.</p> <p>Issues which are projected to involve sums below the "Delegated Authority Threshold" may be authorised by Corporate Directors in line with the scheme of delegations.</p> <p>Issues which are approved by Corporate Directors under delegated authority but involve sums in excess of the "Noting Report Threshold" must be the subject of a noting report to the next available Cabinet.</p> <p>Please also see the Virements Section at D2 for more information.</p>

	<b>Delegated Authority Threshold</b>	<b>Noting Report Threshold</b>
Transfer of a budget allocated for a particular purpose to be used for another purpose (Virement)	SEE TABLE AT SECTION D2	£1M



Approval of a supplementary or additional of a Capital Budget	£250,000	£250,000
Waiving Competition Requirements for Contracts and Orders (Subject to EU Threshold)	£250,000	£250,000
Capital Overspends	£250,000	£250,000
Settlement of Uninsured Claims	£250,000	£250,000

## **C: Financial Planning**

<b>C1</b>	<p><b>Budgets and Capital Programmes</b></p> <p><b>Budgets</b> The budgets are prepared in line with the Budget Framework which comprises the following; General Fund Budget Housing Revenue Account Budget Dedicated Schools Budget General Fund Capital Programme and Strategy Housing Revenue Account Capital Programme</p> <p>The Council is responsible for agreeing the Budget Framework. It is the responsibility of the Executive (whether the Mayor, the Cabinet, individual Members or an officer acting on delegated authority) to operate within the Budget Framework.</p> <p>Any proposal or decision by the Mayor or Executive that would result in expenditure exceeding the limits within the budget framework as defined above will be considered a breach of that framework and must be dealt with in accordance with the Budget and Policy Framework Procedure Rules at Part 4.3 of the Constitution.</p> <p><b>Setting the Budget</b></p> <ol style="list-style-type: none"> <li>1. The process for compilation of the budget will be approved by the Executive on the advice of the Corporate Director, Resources.</li> <li>2. The draft budget should include projected net expenditure on services and projects, proposed taxation and other income levels as well as any contingency funds.</li> <li>3. The Corporate Director, Resources is responsible for ensuring that a revenue budget and a Medium-Term Financial Plan for a three-year review period are prepared annually for consideration by the Executive, before submission to the Full Council.</li> </ol>
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4. Senior Managers will ensure the proper administration of the Revenue Budgets and the Capital Programme allocated to them. They will also ensure compliance with guidance and instructions issued by the Corporate Director, Resources.

### **Revenue Budget**

The current elements which comprise the budget setting process are as set out below:

1. The Government publishes its spending plans, indicating the aggregate resources to be allocated to Local Authorities in the medium term.
2. This is followed by final announcement and more information each year of the resources to be allocated by Central Government to Local Authorities.
3. The Council has to calculate its tax base, which is formally approved by the Executive in January.
4. The Greater London Authority will notify the Council of the amount it requires to be collected from the residents and this is incorporated into the Council Tax calculation.
5. The Executive must propose its budget to Council in accordance with the Budget and Policy Framework Procedure Rule.
6. The Council has to agree the level of Council Tax before 11th March each year and at the same time Full Council will also formally agree a legal balanced budget.

### **Capital Programme**

The Council produces a three-year capital programme to ensure resources are maximised, and potential resource gaps identified. This avoids abortive costs being incurred.

### **Objectives**

1. A Capital Programme is to be prepared annually projecting capital expenditure and associated resources for the next 3 years.
2. All capital receipts are to accrue to the Corporate budget in the first instance and are to be allocated on the basis of criteria corresponding to the capital strategy document.
3. Central Government resources, which are not specific to a project or programme area, also accrue to the Corporate pot and are allocated based on criteria corresponding to the capital strategy document.
4. All Directorates are entitled to bid for resources within the Corporate budget.
5. All capital programme expenditure must satisfy the statutory definitions of capital.
6. The contents and format of the Capital Programme is to be specified by

	<p>the Corporate Director, Resources.</p> <p>The detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<b>C2</b>	<p><b>Maintenance of Reserves</b></p> <p>The Authority must decide the level of General Reserves it wishes to maintain as part of its financial planning before it can set the annual Council Tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur.</p> <p>Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items. Accounting policies require these to be differentiated from Provisions, the latter being maintained to meet future expenditure arising from a past event the timing of which is uncertain and cannot therefore be contained in the annual budget.</p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. To maintain Reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice, LAAP Bulletin 55 and other agreed accounting policies.</li> <li>2. For each Reserve established, the purpose, usage, procedures for the management and control of reserves, and basis of transactions should be clearly identified.</li> <li>3. Authorisation of expenditure from Reserves is agreed by the Corporate Director, Resources.</li> </ol> <p>It is the responsibility of the Corporate Director, Resources to advise the Executive on prudent levels of reserves for the Council. Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<b>C3</b>	<p><b>Financial Implications of Decision Making</b></p> <ol style="list-style-type: none"> <li>1. The Corporate Director, Resources is responsible for: <ol style="list-style-type: none"> <li>a. Issuing guidance in relation to the presentation of financial implications within the Council's decision-making processes.</li> <li>b. Ensuring sufficient information on financial implications is presented within individual decision-making reports and have appropriate sign-off.</li> </ol> </li> <li>2. Senior Managers are responsible for: <ol style="list-style-type: none"> <li>a. Ensuring that all decision-making reports properly set out the financial implications of any proposed actions, through the provision of adequate information to relevant people and</li> </ol> </li> </ol>

	<p>departments to allow this section to be prepared.</p> <ol style="list-style-type: none"> <li>b. Ensuring they act in accordance with guidance issued by the Corporate Director of Resources.</li> <li>c. Arranging for all financial implications to be validated and formally signed off by the Corporate Director, Resources, or his/her nominated representative, prior to their progression through the approval process.</li> <li>d. Consulting with relevant parties where there may be financial implications for them, including other Cabinet members.</li> </ol>
<b>C4</b>	<p><b>Financial Planning Responsibilities</b></p> <p><b>Capital Programme Responsibilities of Corporate Director, Resources</b></p> <ol style="list-style-type: none"> <li>1. To issue detailed guidelines annually on the format and content of the three-year capital programme and produce the three-year programme for approval by the Executive.</li> <li>2. To produce the criteria for the approval of Directorate bids to be allocated corporate capital resources.</li> <li>3. To produce a corporate capital programme for approval by the Executive, including elements to satisfy local priorities.</li> <li>4. To devise a mechanism that allocates resources to Directorate Capital Programmes.</li> <li>5. To produce a report for the Executive for the approval and the allocation of capital resources to Directorates.</li> </ol> <p><b>Responsibilities of Senior Managers</b></p> <ol style="list-style-type: none"> <li>1. To prepare bids for capital resources corresponding to the guidance issued by the Corporate Director, Resources.</li> <li>2. To prepare monitoring reports of the schemes in the approved capital programme in the format and timetable specified by the Corporate Director, Resources.</li> <li>3. To ensure that records which satisfy internal and external audit requirements are maintained for all contracts.</li> <li>4. To proceed with projects only when there is a budget within the agreed capital programme and adequate capital resources have been identified.</li> <li>5. To obtain a supplementary capital budget where an individual Capital Scheme is projected to spend in excess of the original approval, or an additional scheme needs approval. <ul style="list-style-type: none"> <li>• A supplementary capital budget can be granted by the appropriate Corporate Director if the overspend is less than £250,000 – Financial Regulation B10.</li> <li>• Executive approval must be obtained for Supplementary Capital budgets in excess of £250,000. An explanatory report is required.</li> </ul> </li> <li>6. To comply with Financial Instructions relating to procurement as issued by the Corporate Director, Resources.</li> </ol>

7. To comply with the financial accounting instructions relating to capital items issued by Corporate Director, Resources.
8. To ensure that adequate provision is made in the revenue budget for any ongoing revenue costs arising from capital schemes.

### **Revenue Budget Preparation**

#### **Responsibilities of the Corporate Director, Resources**

1. To issue detailed guidance and instructions on the procedures, responsibilities and timetable for preparing Revenue Budgets.
2. To provide guideline cash budget options to Members following Government announcements.
3. To work within the political budget strategy provided by the Executive.
4. To manage, in conjunction with Directorates, a process to deliver a balanced budget.
5. To calculate the resource/projected expenditure position for the period of the Medium-Term Financial Plan (3-5 years ahead).
6. To collate the exemplifications of savings or growth from departments, as required by the budget strategy.
7. To advise and agree the levels of inflation that may be applied to specific areas of expenditure.
8. To prepare and submit reports to the Executive, in line with the Scheme of Delegation, on the aggregate spending plans of Directorates and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.
9. To obtain Full Council approval for both the Council Tax and the budget setting report each year within the statutory timetable.

#### **Responsibilities of Senior Managers**

1. To take responsibility for delivering the budget strategy.
2. To assist in the development and delivery of the budget process.
3. When drawing up draft budget requirements, to have regard to:
  - spending patterns and pressures revealed through the budget monitoring process.
  - legal requirements.
  - policy requirements as determined by the Full Council in the approved policy framework.
  - initiatives already under way.
4. To work within budget limits.
5. To provide the specific Directorate information requested.
6. To compile a Directorate budget within the guidelines issued by the Corporate Director, Resources.
7. To obtain the approval of the Executive for new proposals, of whatever amount, that:
  - create financial commitments in future years.
  - change existing policies, initiate new policies or cease existing policies.
  - in the opinion of the Senior Manager and appropriate Lead Member materially extend or reduce the Council's services.

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## D: Financial Management

<b>D1</b>	<b>Budget Monitoring and Control</b>
	<p><b>Background</b></p> <p>Budgetary control ensures that resources allocated are utilised for their intended purposes, are properly accounted for, and provides timely information on variations from financial targets. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year and identifies managers responsible for defined elements of the budget.</p> <p>Capital budget monitoring ensures that capital resources allocated by the Executive are used for their intended purposes. Capital control provides the mechanism to review progress on capital schemes, by comparison with the capital programme. The Corporate Capital Monitoring Statement is a report that is produced every quarter that details projected capital expenditure and resources.</p> <p><b>Objectives</b></p> <ol style="list-style-type: none"><li>1. Identify a nominated budget manager for each cost centre.</li><li>2. Ensure budget managers accept accountability for their budgets, the level of service to be delivered and understand their financial responsibilities.</li><li>3. Ensure budget managers follow an approved certification process for all expenditure.</li><li>4. Ensure income and expenditure are properly recorded and accounted for.</li><li>5. Ensure levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.</li><li>6. Ensure actual income and expenditure is equal to that recorded on the corporate financial systems.</li><li>7. Ensure that there is a nominated officer for each capital budget, project and programme.</li><li>8. Budget managers are accountable for their projects and budgets.</li><li>9. Ensure potential resource under or over provision is identified early in the capital programme cycle to enable remedial action to be taken.</li></ol> <p><b>Responsibilities</b></p> <ol style="list-style-type: none"><li>1. Senior Managers are responsible for ensuring that within any financial year they take all reasonable measures to ensure an approved Revenue or Capital Budget within their control is not overspent.</li><li>2. Senior Managers must seek to ensure that there is no shortfall in the budgeted level of income.</li><li>3. When a projected overspend (or under recovery of income) is forecast to occur in a section of the Revenue Budget, or on a scheme within the</li></ol>

	<p>Capital Programme, Senior Managers and other responsible officers must take measures to eliminate or reduce the overspend and maintain records of such actions.</p> <p>4. The Corporate Director, Resources must be informed of potential budget variances in accordance with budget monitoring guidelines. The overspend will be the subject of a report to the Executive.</p> <p>Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>																
<b>D2</b>	<p><b>Virements</b></p> <p>These rules aim to allow the Executive to manage the budget once it has been approved by Council, whilst also providing for good governance of financial matters. For more details on Virements please see FM2, FM5 and FA10 of Appendix A to these Rules.</p> <p>A virement is the transfer of resources from one budget head to another, during a financial year. It is thus the financial consequence of a change in priority of service delivery or in the means by which services are delivered. It can also be the use of resources provided within the budget framework, but which are not allocated for any specific purpose e.g. unallocated contingency. A virement will naturally flow from, and be part of, a decision.</p> <p>The Executive shall have the power to vire resources within each of the above components of the Budget Framework agreed by Council, subject to the following limitations:</p> <table border="1" data-bbox="284 1256 1401 1962"> <tr> <td colspan="2" data-bbox="284 1256 1401 1294"><b>Virement within a Portfolio</b></td> </tr> <tr> <td data-bbox="284 1294 651 1368">Up to £100,000</td> <td data-bbox="651 1294 1401 1368">Budget Holder in agreement with a Divisional Director</td> </tr> <tr> <td data-bbox="284 1368 651 1480">From £100,000 up to but not including £250,000</td> <td data-bbox="651 1368 1401 1480">The relevant Corporate Director in agreement with the Corporate Director, Resources</td> </tr> <tr> <td data-bbox="284 1480 651 1630">From £250,000 up to but not including £1m</td> <td data-bbox="651 1480 1401 1630">The relevant Corporate Director following consultation with the relevant Cabinet Member as well as the Cabinet Member for Resources and Corporate Director of Resources</td> </tr> <tr> <td data-bbox="284 1630 651 1704">£1m and above</td> <td data-bbox="651 1630 1401 1704">The Mayor in Cabinet</td> </tr> <tr> <td colspan="2" data-bbox="284 1704 1401 1778"><b>Virement between Portfolios</b></td> </tr> <tr> <td data-bbox="284 1778 651 1852">Up to £100,000</td> <td data-bbox="651 1778 1401 1852">Budget Holder in agreement with the Divisional Directors from both affected portfolios</td> </tr> <tr> <td data-bbox="284 1852 651 1962">From £100,000 up to but not including £250,000</td> <td data-bbox="651 1852 1401 1962">The relevant Corporate Directors from both affected portfolios in agreement with the Corporate Director, Resources</td> </tr> </table>	<b>Virement within a Portfolio</b>		Up to £100,000	Budget Holder in agreement with a Divisional Director	From £100,000 up to but not including £250,000	The relevant Corporate Director in agreement with the Corporate Director, Resources	From £250,000 up to but not including £1m	The relevant Corporate Director following consultation with the relevant Cabinet Member as well as the Cabinet Member for Resources and Corporate Director of Resources	£1m and above	The Mayor in Cabinet	<b>Virement between Portfolios</b>		Up to £100,000	Budget Holder in agreement with the Divisional Directors from both affected portfolios	From £100,000 up to but not including £250,000	The relevant Corporate Directors from both affected portfolios in agreement with the Corporate Director, Resources
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From £250,000 up to but not including £1m	The relevant Corporate Director following consultation with the relevant Cabinet Member as well as the Cabinet Member for Resources and Corporate Director of Resources
£1m and above	The Mayor in Cabinet

**Virements – Non-Financial Consequences**  
The Virement Rules refer only to the financial consequences of proposals and decisions by the Executive. However, such proposals and decisions can also impact upon services and upon the community. This needs to be acknowledged when determining the procedural arrangements for those proposals and decisions, for example they may represent a “key decision”.

## E: Risk Management and Control of Resources

<b>E1</b>	<p><b>Risk Management</b></p> <ol style="list-style-type: none"> <li>1. Audit Committee is responsible for approving the authority’s risk management policy statement and strategy and for reviewing the effectiveness of the risk management.</li> <li>2. The Executive is responsible for ensuring that proper insurance exists where appropriate.</li> <li>3. The Corporate Director, Resources is responsible for preparing the authority’s risk management policy statement, for promoting it throughout the authority and for advising the Executive on proper insurance cover where appropriate.</li> </ol>
<b>E2</b>	<p><b>Internal Control</b></p> <ol style="list-style-type: none"> <li>1. Internal control refers to the systems of control devised by management to help ensure the authority’s objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority’s assets and interests are safeguarded.</li> <li>2. The Corporate Director, Resources is responsible for advising on effective systems of internal control.</li> <li>3. Senior Managers are responsible for organising their operations to ensure appropriate controls are in place, ensure the Council’s objectives are achieved, VFM secured and assets are safeguarded.</li> <li>4. Such arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.</li> </ol>



	<p>5. Senior Managers must ensure that public funds are properly safeguarded and used economically, efficiently, and effectively and in accordance with the statutory and other authorities that govern their use.</p> <p>6. It is the responsibility of Senior Managers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve economy, efficiency and effectiveness and for achieving their financial performance targets.</p>
<b>E3</b>	<p><b>Audit Arrangements</b></p> <p>1. The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit.</p> <p>2. The Audit Committee, in conjunction with an Independent Auditor Panel is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by part 5 of the Local Audit and Accountability Act 2014.</p> <p>3. The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.</p> <p>4. Officers and Members will cooperate fully with auditors and inspectors in the pursuance of their duties.</p>
<b>E4</b>	<p><b>Preventing Fraud &amp; Corruption</b></p> <p>1. The Corporate Director, Resources is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.</p> <p>2. Senior Managers are responsible for designing their systems of controls and putting in place internal controls that adequately manage the risk of fraud and corruption.</p> <p>3. Senior Managers must report all instances of actual or attempted fraud to the Corporate Director, Resources and/or the Head of Audit and Risk Management.</p>

## **F: Financial Administration**

<b>F1</b>	<p><b>General</b></p> <p>Departments have many systems and procedures relating to the control of the Council's assets, including purchasing, transaction processing and management systems. Departments are reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain</p>
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	<p>controls to ensure that transactions are properly processed, and errors detected promptly.</p> <p>The Corporate Director, Resources has a professional responsibility to ensure that the Council's financial systems are sound and should therefore sign off any new developments or changes.</p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. Basic systems and controls are in place to ensure the integrity of data held on computer systems.</li> <li>2. Performance of systems is communicated to the appropriate managers on an accurate, complete and timely basis.</li> <li>3. Systems produce timely reports of management information which is usable by managers.</li> <li>4. Operating systems and procedures are secure.</li> <li>5. Computer systems are co-ordinated with manual procedures and operate efficiently alongside them.</li> </ol> <p><b>Responsibilities</b></p> <ol style="list-style-type: none"> <li>1. The Corporate Director, Resources is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting key financial records.</li> <li>2. Any changes made by Senior Managers to the existing financial systems or the establishment of new systems must be approved by the Corporate Director, Resources.</li> <li>3. Senior Managers are responsible for the proper operation of financial processes in their own departments.</li> <li>4. Any changes to agreed procedures by Senior Managers to meet their own specific service needs should be agreed with the Corporate Director, Resources.</li> <li>5. Senior Managers should ensure that their staff receive relevant financial training.</li> <li>6. Senior Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation.</li> <li>7. Senior Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.</li> </ol> <p>Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<p><b>F2</b></p>	<p><b>Income and Expenditure</b></p> <ol style="list-style-type: none"> <li>1. It is the responsibility of Senior Managers to ensure that a proper scheme of financial delegation has been established within their area and is operating effectively. The scheme of financial delegation must be submitted to the Head of Financial Systems and reviewed quarterly at a</li> </ol>

	<p>minimum.</p> <p>2. The scheme of financial delegation must identify staff authorised to act on the Senior Managers' behalf in respect of payments, income collection and placing orders, together with the limits of their authority. The scheme of financial delegation is subject to the approval of the Corporate Director, Resources.</p> <p>3. The Executive is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.</p>
<b>F3</b>	<p><b>Payments to employees and Members</b></p> <p>1. The Corporate Director, Resources is responsible for all remuneration payments to all staff, including any payments for severance, and for payment of allowances to Members.</p> <p>2. Senior Managers are responsible for providing information in a timely manner to enable the Corporate Director, Resources to discharge these responsibilities.</p>
<b>F4</b>	<p><b>Taxation</b></p> <p>1. The Corporate Director, Resources is responsible for advising Senior Managers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.</p> <p>2. The Corporate Director, Resources is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.</p> <p>3. Senior Managers are responsible for ensuring that sufficient information is provided in a timely manner to enable the Corporate Director, Resources to discharge the Council's obligations under the tax legislation.</p>
<b>F5</b>	<p><b>Trading accounts and /business units</b></p> <p>1. It is the responsibility of the Corporate Director, Resources to advise on the establishment and operation of trading accounts and business units.</p>
<b>F6</b>	<p><b>Internal Recharges</b></p> <p>Much of the flow of money across the Council originates from services provided by one department to another. This, in a number of cases, stems</p>

	<p>from internal trading account services.</p> <p>To facilitate proper controls and the management of the Council's budgets, transactions need to be raised and processed in an efficient and effective manner. This should ensure that purchasers are charged promptly and pay within a commercially acceptable timescale, and that trading services invoice their customers in the knowledge that payment will be received within that stated time-scale. Where practicable these processes will be automated. The budget for core services e.g. admin buildings, payroll and legal will remain with the purchaser and the Corporate Director, Resources will stipulate corporate arrangements for managing these recharges.</p> <p>For ad-hoc and project works the process follows similar principles to the ordering of and payment for goods and services.</p> <p>To ensure that the process is operating in accordance with the framework, regular departmental monitoring of incoming and outgoing recharges needs to be carried out.</p> <p>The Corporate Director, Resources (or his/her delegate) will act as an arbitrator to resolve disputes that cannot be settled between purchaser and provider. This is to ensure that all disputes are resolved within a stated timescale and will not adversely affect financial monitoring.</p> <p>It is the responsibility of the purchaser to ensure that they have sufficient resources to pay for commissioned project and ad-hoc work. It is the responsibility of the provider before work commences to advise the purchaser if the work is not covered by the core support service budget and needs specific financing.</p>
<b>F7</b>	<p><b>Banking</b></p> <p>The efficient operation of a bank account is an essential element of the Council's financial arrangements.</p> <p>Bank accounts also represent an area where there is significant scope for fraudulent activity, and it is essential that adequate controls exist.</p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. To ensure that only bank accounts authorised by designated officers, are operated by the Council.</li> <li>2. To ensure that only authorised entries are made in the Council's bank account.</li> </ol> <p>Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<b>F8</b>	<b>Imprest</b>

	<p>The Council operates a number of petty cash imprest accounts to finance minor expenditure.</p> <p><b>Objectives</b> To ensure the minimum petty cash balances are held consistent with the effective operation of services.</p> <p>Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<b>F9</b>	<p><b>Insurance</b></p> <p>The Council effects insurance for high level risks, where this is economic to do so, in order to protect its taxpayers against the impact on local charges, should a catastrophe occur.</p> <p>It is essential that Directorates advise the Insurance Section of any change to their activities which insurance underwriters might consider could materially affect the risk. Failure to do so might invalidate the insurance cover.</p> <p><b>Objectives</b></p> <ol style="list-style-type: none"> <li>1. Procedures are in place to identify, assess, prevent or minimise material known risks, and these procedures are operating effectively throughout the Council.</li> <li>2. Monitoring and regular review of risk reduction strategies.</li> <li>3. Procedures are in place to identify and record all insurance and the property or risk covered.</li> <li>4. Procedures are in place to notify and record the occurrence of any incident or loss that may give rise to a claim by the Council for recovery from insurance companies of the loss.</li> <li>5. Procedures are in place to notify the Insurance Section of any claim against the Council.</li> <li>6. Procedures are in place to investigate claims within required timescales.</li> </ol> <p>Further details on the detailed responsibilities of the Corporate Director, Resources and the Senior Managers can be found in the separate Financial Procedures Manual.</p>
<b>F10</b>	<p><b>Assets</b></p> <ol style="list-style-type: none"> <li>1. Senior Managers shall ensure that records and assets are properly maintained and securely held</li> <li>2. Senior Managers should ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system</li> </ol>

	<p>failure are in place.</p> <p>3. The Corporate Director, Place is responsible for ensuring that valuations of the Council's assets are undertaken for management and reporting purposes.</p>
<b>F11</b>	<p><b>Treasury</b></p> <p>1. The authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.</p> <p>2. The Full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the full Council as part of the annual budget setting process.</p> <p>3. The Corporate Director, Resources has delegated responsibility for implementing and monitoring the statement.</p> <p>4. All money in the hands of the authority is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Director of Finance.</p> <p>5. All executive decisions on borrowing, investment or financing shall be delegated to the Corporate Director, Resources, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.</p>
<b>F12</b>	<p><b>Employees</b></p> <p>Full Council is responsible for confirming the appointment of the Chief Executive/Head of Paid Service, and has delegated to the Appointments Sub-Committee of the General Purposes Committee responsibility for appointing to the other Chief Officer and Deputy Chief Officer posts. These are the only appointments that elected Members are involved in apart from the group/Mayor's political assistants.</p>
<b>F13</b>	<p><b>External Funding</b></p> <p>External funding can prove an important source of income but funding conditions must be carefully examined before any agreement is entered into to ensure they are compatible with the aims and objectives of Council.</p> <p>The Corporate Director, Resources is responsible for:</p> <p>a. Ensuring that any match funding requirements are considered prior to entering into any agreement, that future revenue budgets reflect these requirements, and that any longer term</p>

	<p>sustainability costs have been properly assessed.</p> <ul style="list-style-type: none"> <li>b. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.</li> <li>c. Maintaining a central register of external funding/grant arrangements.</li> <li>d. Ensuring that all audit requirements are met.</li> </ul> <p>Senior Managers are responsible for:</p> <ul style="list-style-type: none"> <li>a. Ensuring that the sustainability of funding is assessed for risk, any agreements entered into are consistent with and support the Council's service priorities, and necessary approvals have been obtained.</li> <li>b. All claims for funds are made by the due date.</li> <li>c. Work is progressed in accordance with the project plan and all expenditure is properly incurred and recorded.</li> </ul>
<b>F14</b>	<p><b>Third Party Work</b></p> <p>Work can only be undertaken for third parties where the Council has the legal powers to undertake the work.</p> <p>With regard to the financial aspects of third party contracts, the Council must;</p> <ul style="list-style-type: none"> <li>I. Comply with any guidance issued by the Corporate Director, Resources and will ensure that the appropriate insurance arrangements are made.</li> <li>II. Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.</li> <li>III. Ensure that the Council is not unnecessarily exposed to the risk of bad debts.</li> </ul> <p>A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement in order that the appropriate disclosures can be made within the Council's annual statement of accounts.</p> <p>The Head of Procurement is responsible for monitoring the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000.</p>
<b>F15</b>	<p><b>Accounting System</b></p> <p>Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. This includes:</p>

	<p>The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner, and that any errors are detected promptly and rectified.</p> <p>The Corporate Director, Resources is responsible for:</p> <ol style="list-style-type: none"> <li>a. Determining the Council’s main accounting system for the preparation of the Council’s accounts and for monitoring all income and expenditure.</li> <li>b. Determining any financial systems which may sit outside of the main accounting system, and ensuring, if approved for implementation, that these are sound and properly integrated and interfaced.</li> <li>c. Issuing guidance on the use and maintenance of the main accounting system and related financial systems, and ensuring that supporting records and documents are retained.</li> <li>d. Ensuring that regular balance sheet and holding account reconciliations are undertaken.</li> <li>e. Preparing the Council’s consolidated accounts, balance sheet and governance statement for audit and publication, and issuing guidance (including a detailed timetable and plan) to ensure achievement of statutory deadline.</li> </ol> <p>Senior Managers are responsible for:</p> <ol style="list-style-type: none"> <li>a. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the Corporate Director, Resources.</li> <li>b. Ensuring an adequate audit trail of financial information and compliance with the Council’s policies in respect of the retention of documents.</li> <li>c. Ensuring that the implementation of any Unit financial system has the express approval of the Corporate Director, Resources, and is adequately documented, tested and interfaced with the main accounting system.</li> </ol>
<b>F16</b>	<p><b>Amenity and Unofficial Funds</b></p> <p>Relevant to all officers handling official and unofficial funds, including residents’ cash and valuables.</p> <p><b>General Principles</b></p> <ol style="list-style-type: none"> <li>1. Cash is always attractive and vulnerable to theft. Cash holdings must be kept to the practical minimum and never in excess of the insurance limit for the particular establishment. The Insurance Section can advise on the limit.</li> <li>2. Risk assessments must be carried out regularly to check if risks have changed and always when procedures or staff have changed.</li> <li>3. Where larger sums of money have to be held, a safe may be essential. For smaller sums, a locked cash box in a locked drawer or cupboard</li> </ol>



	<p>may be acceptable. The Insurance Section can advise on the need for a safe or otherwise.</p> <p>4. Cash must always have a full management trail – cash to be banked must be banked intact and never used to cash personal cheques, provide a petty cash float or for any other purpose.</p>
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**G: External Arrangements**

<b>G1</b>	<p><b>Partnerships</b></p> <ol style="list-style-type: none"> <li>1. The Executive is responsible for approving delegations, including frameworks for partnerships.</li> <li>2. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.</li> <li>3. The Executive may delegate functions – including those relating to partnerships – to officers. Where functions are delegated, the Executive remains accountable for them to the Full Council.</li> <li>4. The Authority may nominate individual Members and or officers to represent the Authority on external bodies.</li> <li>5. The Monitoring Officer is responsible for promoting and maintaining the same high standards of ethics in partnerships that apply throughout the Authority.</li> <li>6. The Corporate Director, Resources will advise on the accounting arrangements to be adopted relating to partnerships and joint ventures. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.</li> <li>7. Senior Managers are responsible for ensuring that appropriate Council approvals are obtained before any negotiations are concluded in relation to work with external bodies.</li> </ol>
<b>G2</b>	<p><b>Companies</b></p> <ol style="list-style-type: none"> <li>1. In relation to companies that the Council has an interest in, it is imperative that they are set up, managed and run according to rules of good governance so that risks are mitigated.</li> <li>2. No company can be created without the express approval in writing of the Corporate Director, Resources.</li> <li>3. The Corporate Director, Resources is responsible for advising the</li> </ol>

	<p>company directors of the accounting arrangements the company must adopt.</p>
4.	<p>The Monitoring Officer is responsible for advising on the legal requirements and implications with respect to the creation and ongoing running of a company.</p>

## 37 Contracts and Procurement Procedure Rules

### CONTENTS

<b>Rule</b>	<b>Subject</b>
<b>1</b>	Procurement Procedures
<b>Appendix</b>	
<b>A</b>	Procurement Procedures

#### 1. PROCUREMENT PROCEDURES

- 1.1. Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant EU Directives and United Kingdom legislation.
- 1.2. The Procurement Procedures shall govern the Council's tendering and contract procedures. The Corporate Director, Resources shall maintain and issue these Procedures. Any procurement activity shall proceed in accordance with the Procedures and any financial thresholds for procurement specified by the Procedures. These Procedures and any updated or amended versions will then be placed in Appendix A of these Rules.
- 1.3. The Corporate Director, Resources shall make the latest version of the Procurement Procedures available to every Chief Officer, the Mayor and all Members of the Council and any other person engaged in procuring works, goods or services on behalf of the Council. Chief Officers or officers acting on their behalf shall apply the requirements of the Procedures when engaging in any procurement activity.
- 1.4. The purpose of procurement activity shall be to achieve best value for local people in accordance with the Council's statutory or approved objectives. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness (otherwise known as the Council's Best Value Duty).
- 1.5. Nothing in the Procurement Procedures shall be construed as removing or diminishing the responsibility of all involved to meet individual and collective accountabilities. Any failure by an officer to comply with the Procurement Procedures is likely to constitute a disciplinary offence and be investigated under the appropriate disciplinary procedure.

- 1.6. Chief Officers shall ensure that the Executive or an Executive Member is consulted on any procurement activity of a controversial nature. If however the decision is a 'key' decision that has not been delegated then a report must be submitted to Cabinet for determination having proper regard to the Access to Information Rules at Part 4.2 of the Constitution.
  
- 1.7. The contracting strategy and/or award of any contract for goods or services with an estimated value exceeding £250,000, and any contract for capital works with an estimated value exceeding £5,000,000, shall be approved by the Executive in accordance with the Procurement Procedures. Contracts for goods or services with an estimated value of less than £250,000 and contracts for capital works with an estimated value of less than £5,000,000 shall be approved by the relevant Chief Officer, in accordance with the Procurement Procedures. If however the decision is a 'key' decision that has not been delegated then a report must be submitted to Cabinet for determination having proper regard to the Access to Information Rules at Part 4.2 of the Constitution.

**Procurement Procedures**

**The purpose of these Procedures is to lay down a set of rules which provide a framework for all those involved in procuring supplies, works and services on behalf of the Council, or interacting with providers, or potential providers.**

**They apply to all representatives of the Council, Officers, Agents, or Members.**

**Failure to comply with these Procurement Procedures may put the Council at risk and can lead to disciplinary action against the person responsible.**

## **Table of Contents**

### **PART 1 – INTRODUCTION**

#### **1. INTRODUCTION**

### **PART 2 - APPLICABLE TO ALL CONTRACTS**

#### **2. HIERARCHY OF RULES**

#### **3. PROCUREMENT OBJECTIVES AND IMPERATIVES**

#### **4. PROCUREMENT STRATEGY**

#### **5. RESPONSIBILITIES OF CORPORATE DIRECTORS**

#### **6. FINANCIAL THRESHOLDS AND PROCEDURE FOR CONTRACT LETTING**

### **TABLE 1 - SUMMARY OF PROCUREMENT THRESHOLDS**

#### **7. SPECIFICATIONS**

#### **8. E-PROCUREMENT**

#### **9. LATE BIDS**

#### **10. CONFLICT OF INTEREST**

#### **11. SUPPLIER REGISTRATION AND APPROVAL**

#### **12. OFFICIAL PURCHASE ORDERS**

#### **13. ICT RELATED SUPPLIES, SERVICES AND WORKS**

#### **14. CONSORTIA AND COLLABORATIVE FRAMEWORK AGREEMENTS**

#### **15. USE OF STANDARD TEMPLATES**

#### **16. SEPARATION OF DUTIES**

#### **17. LOCAL BUSINESSES**

#### **18. SUPPLY CHAIN ETHICAL CODE OF CONDUCT**

#### **19. THE BRIBERY ACT**

#### **20. SUSTAINABLE PROCUREMENT**

#### **21. FREEDOM OF INFORMATION ACT**

#### **22. CONTRACT REGISTER**

#### **23. CONTRACT MANAGEMENT**

#### **24. EXTENSIONS AND VARIATIONS**

### **PART 3 - APPLICABLE TO CONTRACTS BELOW £100,000**

#### **25. COMPETITION**

#### **26. EVALUATION AND CONTACT AWARD**

#### **27. CLARIFICATION AND ADDITIONAL INFORMATION**

#### **28. TIMESCALES FOR QUOTATIONS**

#### **29. TERMS AND CONDITIONS**

#### **30. USE OF PURCHASING CARDS**

### **PART 4 - APPLICABLE TO CONTRACTS IN EXCESS OF £100,000**

#### **31. COMPETITION**

#### **32. FORWARD PLAN**

#### **33. PROJECT INITIATION FORM**

34. CABINET APPROVAL – AUTOMATIC REFERRAL
35. CABINET APPROVAL – REFERRAL BY HEAD OF CORPORATE PROCUREMENT
36. TOLLGATE PROCESS
37. ENGAGEMENT WITH THE STRATEGIC COMPETITION BOARD
38. TIMESCALES
39. TENDER DOCUMENTATION
40. TERMS AND CONDITIONS
41. TENDER CLARIFICATION AND ADDITIONAL INFORMATION
42. NEGOTIATIONS
43. TENDER EVALUATION
44. SUPPLIER SELECTION CRITERIA
45. SUPPLIER AWARD CRITERIA
46. TENDER REPORT
47. DEBRIEFING
48. CONTRACT AWARD

**PART 5 – EXCEPTIONS TO THE PROCUREMENT PROCEDURES**

49. VALID EXCEPTIONS TO THE PROCUREMENT PROCEDURES
50. RECORD OF CORPORATE DIRECTOR'S ACTIONS (RCDA) - WAIVING OF PROCUREMENT PROCEDURES

**APPENDIX 1: TOLLGATE PROCESS**

## PART 1 – INTRODUCTION

### 1. Introduction

- 1.1 The purpose of these Procedures is to lay down a set of rules which provide a framework for representatives procuring supplies, works and services on behalf of the Council. For ease of use, the specific rules are set out in shaded boxes throughout the Procedures. The Procedures are supplemented by an RFQ (Request for Quotation) toolkit for expenditure with a total value up to £100,000 and a more detailed contracting Tender Toolkit for expenditure above £100,000. These toolkits provide guidance on techniques to achieve best value for money, and a series of templates to be used throughout the procurement process.
- 1.2 Where a corporate contract is in place it **must** be used unless otherwise agreed by Corporate Procurement.
- 1.3 All Council representatives are warned that it is a **disciplinary offence** to fail to comply with these Procurement Procedures when letting contracts. All Council representatives have a duty to report breaches of the Procedures to the relevant Corporate Director and the Head of Corporate Procurement. The Procedures apply to all expenditure by the Council on supplies, services and works, provided by external organisations.
- 1.4 The Procedures include mandatory requirements, which are normally identified by the word “**must**” in bold letters. These requirements **must** always be followed. The words “**should**” and “**should not**” relate to good practice advice. Whilst not mandatory, you must have a good reason for not following the good practice advice and this must be recorded on your tender or quotation file. If in doubt, you must contact Corporate Procurement and/or Legal Services for advice, and where appropriate, Internal Audit.
- 1.5 The generic term **Bid** covers both tenders and quotations. A bid process below a total value of £100,000 will be classed as a quotation. A bid process at or above a total value of £100,001 will be classed as a tender.
- 1.6 All representatives who commission contracts for supplies, works or services are required to follow these Procedures. This requirement also covers all persons who commission contracts on behalf of the Council, such as external consultants. The person who commissioned the consultant **must** ensure that consultants are given copies of the Procedures and that they comply with them.
- 1.7 The Head of Corporate Procurement will be responsible for updating the Procurement Procedures, and shall make the latest version available to every



Corporate Director and Member of the Council as well as posting a copy in the Corporate Procurement area on the Council intranet.

- 1.8 All representatives of the Council must comply with all aspects of legislative requirements relating to purchases made by a public authority.

## **PART 2 - APPLICABLE TO ALL CONTRACTS**

### **2. Hierarchy of Rules**

- 2.1. These Procedures attempt to summarise in a single place all of the Council's Procurement Procedures. The Procedures are derived from provisions contained in the Council's Constitution and Financial Regulations. Every effort has been made to ensure a consistency between the documents, but in the event of any conflict, the Constitution takes precedence, followed by Financial Regulations, followed by these Procedures. These Procedures and Financial Regulations can be amended by the Corporate Director, Resources, whilst changes to the Constitution must be approved by the full Council.
- 2.2. The Procedures refer to European and UK legislation as well as Council policy. Where there is a conflict between European law, English law and Council policy, the requirements of European law take precedence over English law, and the requirements of English law take precedence over Council policy. The Procedures **must not** be waived if failing to comply with these procedures would contravene either UK or European legislation.

### **3. Procurement Objectives and Imperatives**

- 3.1 The purpose of procurement activity is to achieve best value for local people in accordance with the Council's statutory or approved objectives and the Corporate Procurement Strategy. This should include an innovative approach to relationships with the private and not-for-profit sectors within a robust contractual framework. Officers with responsibility for procurement must ensure that they are able to demonstrate achievement of best value by having regard to a combination of economy, efficiency and effectiveness.

### **4. Procurement Strategy**

- 4.1. The Procurement Strategy sets out key policy priorities and an operating framework that **must** be taken into account when procuring supplies, services and works on behalf of the Council. These priorities are:
  - Integration - full integration of commissioning, procurement and contract management activity and commercial principles into our core business

- Governance - governance, transparency, accountability and probity with proportionality in our operational processes
- Approach – a unified approach to managing the activities in the commercial cycle and in our engagement with markets and suppliers
- Partnership - working with our partners
- Technology - effective use of digital technology
- People - making the most of our people, increasing capacity and skills and building an in-house strategic commissioning and procurement capability.

4.2. Every contract or official order for works, supplies or services made by the Council **must** be for the purpose of achieving the Council's statutory or approved objectives and must conform to all relevant domestic and European Union legislation.

## **5. Responsibilities of Corporate Directors**

- 5.1. Corporate Directors have responsibility for all contracts tendered, let and managed by their departments. They are accountable to the Chief Executive and the Executive Mayor for the performance of their duties in relation to contract letting and management. These duties include:
- a. Ensuring compliance with English and EU legislation and Council Policy;
  - b. Ensuring value for money in all procurement activities;
  - c. Ensuring compliance with these Procurement Procedures;
  - d. Ensuring that all relevant staff are familiar with the provisions of these Procedures and that they receive adequate training;
  - e. Ensuring compliance with any guidelines issued in respect of these Procurement Procedures;
  - f. Taking immediate action in the event of a breach of Procurement Procedures within their department;
  - g. Ensuring that IR35 regulations requirements are complied with when engaging suppliers;
  - h. Keeping records of waivers of any provisions within these Procurement Procedures;
  - i. Ensuring appropriate contract management takes place of all contracts;
  - j. Ensuring that all contracts to be tendered are entered onto the Forward Plan of contracts (administered by Corporate Procurement) at the earliest opportunity, and no later than the point at which the procurement exercise commences;
  - k. Ensuring high value and/or high risk contracts are recorded in the corporate risk register;
  - l. Ensuring that their staff act ethically in all their procurement activities;

m. Ensuring that a quarterly report of variations exceeding 10% of the contract value, where the total contract value exceeds the EU threshold, is presented to their own Directorate Management Team.

5.2. Corporate Directors **must** comply with these rules and have a responsibility to ensure that their staff and any consultants or agency staff also comply with them. Corporate Directors **must** put mechanisms in place to ensure that staff who carry out any procurement exercise receive appropriate induction, information and training. Corporate Procurement will provide support for this.

#### **Rule 1**

- Where a Corporate Contract is already in place it must be used unless agreed otherwise by the Head of Corporate Procurement.
- Corporate Directors have responsibility for all contracts let by their Departments. Authority to make decisions under the Procurement Procedures may be delegated. Those who have delegated authority to make decisions in the name of the Corporate Director will be set out in the Scheme of Delegation in the Constitution for the relevant department (or a specific delegation in writing).

## **6. Financial Thresholds and Procedure for Contract Letting**

6.1 The following financial thresholds shall apply to all contract award processes.

To clarify the table below, the following points should be noted:

- a) Total Value refers to the full remuneration to be paid to the supplier or contractor over the life of the contract, including any extensions; (N.B. a 3 year contract with an extension of 1 year at £20,000 per annum has a total value £80,000. A contract to purchase supplies, works or services may also include the purchase of additional supplies and services such as, but not limited to, maintenance, consumables, upgrades, training and documentation. The total value includes these elements even if they come from separate budgets, and separate orders are placed.) The life of the contract includes any actual or potential extension to the contract period that is included in the contract
- b) Where there are a number of linked contracts – e.g. those using the same suppliers, or for similar supplies, services or works – the option for joining them up should be explored;

6.2 Table of Threshold Values

Table 1 below summarises the different procurement thresholds, the procedures to be followed and the officers who are authorised to undertake an RFQ or procurement at each level. The authority to award contracts, following a RFQ or procurement process, is set out at paragraph 10.2 of Part 3 of the Constitution.

**TABLE 1 - SUMMARY OF PROCUREMENT THRESHOLDS**

	Total Value	Procurement Process	Advertising	Authority
LEVEL 1	Up to £25,000	<ul style="list-style-type: none"> <li>• One quotation, through Request for Quote (RFQ) system</li> <li>• Should use local suppliers (E1, E2, E3, &amp; E14). If a good reason exists for not using local suppliers this should be documented and kept on file.</li> <li>• Price only or Price and quality</li> </ul>	None required	Budget Holder
LEVEL 2	£25,001 to £50,000	<ul style="list-style-type: none"> <li>• Two quotation, through Request for Quote (RFQ) system</li> <li>• Should use local suppliers (E1, E2, E3 &amp; E14) If a good reason exists for not using local suppliers this should be documented and kept on file.</li> <li>• Price only or Price and quality</li> </ul>	None required	Budget Holder
LEVEL 3	£50,001 to £100,000	<ul style="list-style-type: none"> <li>• Three quotations, through Request for Quote (RFQ) system.</li> <li>• Should use local suppliers (E1, E2, E3 &amp; E14) If a good reason exist for not using local suppliers this should be documented and kept on file.</li> <li>• Price and quality only</li> </ul>	None required	Budget Holder
LEVEL 4	£100,001 to £164,176 (EU threshold for Supplies & Services)  £100,001 to £589,148 (EU threshold for Light	<ul style="list-style-type: none"> <li>• PIF must be completed</li> <li>• Award criteria to be decided in advance.</li> <li>• Tender process managed by corporate procurement service through the central e-tendering system</li> <li>• Cabinet approval &amp; Tollgate process to be</li> </ul>	Council's website, London Tenders Portal Contracts Finder	Divisional Director

	Touch Regime: social and other specific services)  £100,001 to £4,322,012 (EU threshold For Works)	followed for contracts above £250,000 – Supplies and Services; above £5million – Works.		
LEVEL 5  EU Procedure	EU TENDERS Over £164,176 Supplies & Services  £589,148 Light Touch Regime  £4,322,012 Works	<ul style="list-style-type: none"> <li>• PIF must be completed</li> <li>• Cabinet approval &amp; Tollgate process to be followed for contracts above £250,000 – Supplies and Services; above £5million – Works.</li> <li>• Tender process to follow the requirements of the EU &amp; Public Contracts Regulations 2015</li> <li>• Tender process managed by corporate procurement service through the central e-tendering system</li> </ul>	OJEU Council's website,  London Tenders Portal	Divisional Director or Corporate Director (above cabinet threshold)

## **7. Specifications**

- 7.1. An appropriate specification must be prepared which sets out a clear and comprehensive description of the Council's requirements with regard to the works, goods or services to be supplied.
- 7.2. All works, goods and services must be specified by reference to European standards, or national standards if no European standards are set. Named products or manufacturers should not be specified.
- 7.3. The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the service director to see whether the Council's requirements are being met by the supplier. All necessary professional and technical advice and assistance must be obtained in preparing the specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests.
- 7.4. Officers must take careful consideration of the requirements; in doing so they may undertake research, discussions or briefings with several suppliers before the quotation or tender is issued. Any engagement with supplier must be undertaken in a manner that does not restrict competition or prejudice a fair and transparent procurement process.
- 7.5. In the interests of fairness, non-discrimination and equality of treatment, under no circumstances should an incumbent supplier or contractor be involved in the preparation of a specification for the future procurement of the same or similar contract which they are delivering, or which they would reasonably have an interest in bidding for.

## **8. E-Procurement**

- 8.1. The Council uses secure e-procurement systems and, unless exceptional circumstances apply and a Waiver is granted, all quotations and tenders must be managed electronically through this system.
- 8.2. The Head of Corporate Procurement must make arrangements for the receipt, custody, opening and witnessing of all tenders over £100,000, and must ensure that these arrangements are fully auditable.
- 8.3. The administration and development of the e-procurement system is the responsibility of Corporate Procurement including any enhancements to reflect legislative and policy changes within public procurement.

## **Rule 2**

- All quotation and tenders must be managed electronically through the e-procurement system(s) whose administration and development is the responsibility of Procurement.
- Once a contract has been awarded a purchase order must be raised in R2P unless supplies, services or works fall within the approved exceptions list.

## **9. Late Bids**

- 9.1. Late quotations through the RFQ system are not be accepted by the system.
- 9.2. Electronic tenders are automatically marked as “Late” by the e-tender system. In any event they must not be considered if they arrive after all the other bids have been opened, unless exceptional circumstances apply and the Head of Corporate Procurement (following consultation with the Divisional Director of Legal Services) agrees to accept the late tender. Any unacceptable late bid must not be opened unless it is purely to determine the sender’s details so that the bidder can be advised of the reason for rejection by the Corporate Director or the Head of Corporate Procurement.

## **10. Conflict of Interest**

- 10.1. All members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Employee Code of Conduct, which all employees of the Council are bound by.
- 10.2. All consultants engaged to act on behalf of the Council must sign a Consultant’s Undertaking and declare that:
- a. There is no conflict between their own interests or those of any of their other clients and the interests of the Council; and
  - b. There is no conflict between their own interests or any links with (e.g. a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council.
  - c. They will notify the appropriate director and Corporate Procurement if any conflict of interest arises within the bidding process.



### **Rule 3**

- Conflict of interest in a procurement exercise and subsequent contractual arrangement must be promptly disclosed through the HR Self Service system or, in the case of external consultants, through the completion of a Declaration of Interest document from corporate procurement.

## **11. Supplier registration and approval**

11.1. New supplier registration and approval is managed through the council's procurement system. Supplier approval process is carried out in two stages:

- a) Stage one - registration: suppliers wanting to trade with council are required to complete the basic online supplier registration.
- b) Stage two – approval: To receive Purchase Orders and payments, a supplier will need to be fully adopted, that is, registered in the Finance system (Agresso) and made visible in the requisition to pay system (R2P). Procurement will issue the supplier adoption form through the electronic procurement portal and verify key registration information provided before the supplier can be approved.

11.2. Officers engaging with any organisation where the contract of engagement may fall within the scope of IR35 regulations, that is, individual(s) that will be providing the services under the contract could be considered 'disguised employees' must undertake the HMRC employee's status assessment (IR35 assessment) before engaging in or awarding a contract. Guidance and process map on how to undertake the assessment will be on the Council's intranet. Failure to undertake the assessment and follow the agreed process may lead to disciplinary procedure.

## **12. Official Purchase Orders**

12.1. Once a contract has been awarded an official purchase order must be placed through the Purchase to Pay (R2P) system quoting the contract reference.

12.2. Contracts should only commence once an official purchase order has been issued. Purchase orders can only be issued to suppliers that have gone through the supplier adoption process.

12.3. There are exceptional exclusions to this process and information on these will be available within the Corporate Procurement area of the Council's intranet. The exclusions list is a live document and it will be reviewed by Financial Compliance and Procurement when required. Cases which do not fall within the exclusions listed will be rejected.

### **13. ICT related supplies, services and works**

13.1 In the case of procurement of ICT related supplies and services, the Corporate ICT partner may need to be engaged and officers must consult with the ICT Client Team and/or their ICT Business Partner.

### **14. Consortia and collaborative Framework Agreements**

14.1. Recognised consortium or collaborative procurement arrangements which have been properly tendered may be used, provided that the relevant Corporate Director:

- is satisfied that such an approach represents best value;
- is satisfied – having due regard to advice from Corporate Procurement and Legal Services as appropriate – that use of the arrangements are consistent with all UK and European legislation;
- is satisfied that the terms and conditions of the arrangement do not place undue restrictions or liabilities upon the Council;
- is satisfied that the parties to the arrangement are recognised public bodies or providers from the private sector operating appropriate procurement arrangements on behalf of the public sector;
- ensures that a full, open and proper competition in respect of the creation of the contract has taken place or will take place in accordance with the Relevant UK and European legislation and these Procurement Procedures.

14.2. A list of approved Frameworks Agreements will be managed by Corporate Procurement and published on the Council's intranet.

14.3. Where the relevant Corporate Director so decides, the Central Government Catalogues operated by the Crown Commercial Services at <http://ccs.cabinetoffice.gov.uk/> or any other appropriate framework may be used on the condition that the process set out in these Procedures are followed.

14.4. The award of call off contracts must comply with the procedure set out within the Framework Agreement. This can be either by Direct Award or Mini-competition. Where there is a choice of options, preference should be given to carrying out a mini-competition in order to demonstrate value for money.

Where price is not set out in the framework agreement, a mini-competition must always be undertaken.

- 14.5. Legal Services and Corporate Procurement must be involved before joining or buying from a framework agreement not let by the Council where the value of the contract will exceed the £100,000 procurement threshold. The process in Part 4 of these Procedures will be applicable to the procurement exercise.

## **15. Use of Standard Templates**

- 15.1. All quotations must be invited using the approved templates published on the Council's intranet. Procurement documentation for the selection, invitation, receipt, evaluation, award and management of contracts are regularly updated to ensure compliance with procurement regulations as well as Council procurement policies.
- 15.2. All tenders must be invited using approved standard documentation available from Corporate Procurement.

## **16. Separation of Duties**

- 16.1 Within each Directorate, arrangements should be made to ensure that there is adequate separation of duties and checking procedures to ensure probity and compliance with these procedures and financial regulations.

## **17. Local Businesses**

To be classified as local, a supplier must be based in one of the following post codes:

- E1, E2, E3 and E14

Certain postcodes in E15, E16 and EC are also part of the geographical limits of Tower Hamlets.

## **18. Supply Chain Ethical Code of Conduct**

- 18.1. The Council has adopted a Supply Chain Ethical Code of Conduct which must be included in all quotation and tender documentation, and with which all suppliers must comply. The full details of this Code are available on the Procurement intranet site, but in summary, the code set out the principles and standards of delivery for our suppliers and contractors:

- Maintaining integrity in business relationships.
- Rejecting improper business practice.
- Declaring any potential personal or business conflicts of interest.

- Acquiring and maintaining latest standards of technical knowledge and ethical behavior.
- Optimising the use of resources.
- Compliance with UK law, industry guidelines and contractual obligations.
- Fair, honest and respectable treatment of suppliers.
- Common courtesy at all times.
- Incorporating sustainable procurement aspects into procurement processes including human and employee rights and the environment.

18.2. Whilst it will not be possible to check that every single supplier to the Council complies with the Code, officers should draw suppliers' attention to the Code. Subscription to the code will be mandatory for those suppliers participating in a quotation or tender process.

#### **Rule 5**

- The Council is committed to maintaining the highest standards of ethical conduct. The Supply Chain Ethical Code of Conduct is essential to the operation and reputation of the Council. Suppliers are required to sign acceptance of the code when dealing with the Council.
- Quotations and tenders must be undertaken using approved procurement templates which will be updated by Procurement.

18.3. Corporate Directors must report to Corporate Procurement any issues or breaches arising under the Supply Chain Ethical Code of Conduct. Corporate Procurement may refer the report to Strategic Competition Board, if considered necessary.

### **19. The Bribery Act**

19.1 This Act deals only with bribery – no other forms of white collar crime. The Council may be liable for failing to prevent a person from bribing on its behalf. The Council's policy regarding the Bribery Act is set out on its website at [www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk) and must be adhered to in the contracting process.

### **20. Sustainable Procurement**

20.1. The Council is committed to sustainable economic business development which minimises any adverse impact on the environment and supports social cohesion.

- 20.2. Sustainable criteria must be included as part of the award criteria in all contracts where appropriate. Sustainability will be assessed taken into consideration the following areas:
- a) Environmental sustainability - purchasing supplies, works and services in a way that minimises, where practically possible, the carbon footprint and encourage a positive impact on the local environment and utilises whole-life analysis.
  - b) Economic sustainability – recognises the importance of Small and Medium Enterprises (SME) to the local community and ensures every opportunity is made not to discriminate against SME's during the tender process.
  - c) Social Sustainability – ensures that community well-being is considered and that supply chain partners operate under ethical working practices.

## **21. Freedom of Information Act**

- 21.1 The council has an obligation to publish specific information in the public domain. However, the Freedom of Information Act enables certain confidential information and commercially sensitive material to be withheld. Officers must therefore ensure that bid information is kept confidential at all stages, especially during the bid evaluation process and after the contract is awarded. Suppliers must also be given the opportunity to highlight in their bid any information that they would not wish disclosed under freedom of information request.

## **22. Contract Register**

- 22.1 Contracts let through a quotation process, that is, with a value at or below £100,000, will be published on the Councils website. Contracts let through a tender process, that is with a value in excess of £100,000 will be published through the London Contract Register website:  
<http://www.londoncontractsregister.co.uk/>
- 22.2 Corporate Directors must ensure that all contracts over £100,000 are registered with Corporate Procurement and tendered through Corporate Procurement.

## **23. Contract Management**

- 23.1. All contracts must be monitored to ensure they achieve the objectives and outcomes set out in the specifications. The Contract Management Framework sets out the principles and general guidance for the management of contracts.

The Service, under its Director's supervision, will be responsible for the day-to-day operational delivery of contract management.

- 23.2. Corporate Procurement shall agree with Strategic Competition Board critical contracts (based upon value, business and reputation risk) that will be subject to performance monitoring and scrutiny by the Strategic Competition Board.
- 23.3. Corporate Procurement and Legal Services will provide second line support where performance failure is demonstrated.

#### **Rule 6**

- All contracts awarded through the quotation and tender processes must be published on the London Contract Register and the Council's website.
- All contracts should be managed in line with the Council's agreed Contract Management Framework
- Tender and quotation documentation and contract management records must be kept in accordance with the Retention Schedule published on the Council's intranet.

#### **24. Extensions and Variations**

24.1. Subject to any statutory restrictions and compliance with the Constitution and Financial Regulations, a Corporate Director may authorise the following extensions and variations to an existing contract, following consultation with Legal Services and Corporate Procurement:

##### **24.2. Extensions**

- (i) Extension(s) for a particular period provided for within the terms of the original contract (but subject to satisfactory outcomes of contract monitoring);
- (ii) Extension(s) beyond the original contract are considered a new contract and therefore subject to Procurement Procedures and, where applicable, EU Regulations.

Any extensions that fall outside the original terms of the contract must be justified on the grounds provided by the waiver of the procurement procedures outlined in section 50.1.

A copy of the extension documentation must be provided to Corporate Procurement in order to update the Contract file and Contract Register accordingly.

### 24.3. Variations

The following variations/modifications to a contract are permitted with Corporate Director approval (following advice from Corporate Procurement and Legal Services):

- (i) Variations provided for in the original contract in 'clear, precise and unequivocal' terms; or
- (ii) Variations outside the original contract terms that fall within any of the following **four situations**:
  - a. where the change in value is relatively small - under 10% (services & supplies) or under 15% (works) and where the revised total contract value is under the applicable EU financial threshold (this is cumulative where there is a series of changes); or
  - b. where there are unforeseen circumstances, provided that change does not alter the overall nature of contract and the price increase is not greater than 50%; or
  - c. Where additional works, services or supplies necessary and a change in contractor cannot be made for economic or technical reasons e.g.: interoperability with existing kit; or
  - d. Where to change suppliers would cause significant inconvenience or duplication of costs. In any case, the price increase must not exceed 50% of the value of the original contract.

- (iii) There has been a replacement of the supplier following a corporate restructuring, insolvency or merger, and the new supplier still meets the original selection criteria.

24.4. In any case, a substantial modification not originally provided for in the contract will trigger a new procurement process. This will arise where the modification materially changes the nature of the contract.

24.5. Any Variations that fall outside the original terms of the contract and do not fall under the exceptions listed in section 49.1 must be justified on the grounds provided by the Waiver of the Procurement Procedures outlined in section 50.1.

24.6. A copy of the variation documentation must be provided to Corporate Procurement in order to update the Contract file and Contract Register accordingly.

#### **Rule 7**

- (a) Subject to compliance with UK and EU law, a Corporate Director may authorise an extension to a Contract which was provided for in the original contract terms.
- (b) A Corporate Director may authorise variations, including price variations, determined in accordance with the original contract terms, or other variations which do not materially change the contract, and which fall within the scenarios listed in 50.1.
- (c) All extensions and variations outside of the term of the contract that amount to a contract value in excess of £250,000 (for services or supplies) or £5m (for works) must be referred to Cabinet for approval.



## **PART 3 - APPLICABLE TO CONTRACTS BELOW £100,000**

### **25. Competition**

- 25.1. Contracts that fall within the level one, two and three that is equal to or below £100,000 in value, the Request for Quotation (RFQ) process **must** be followed and all quotations **must** be invited through the electronic RFQ system.
- 25.2. Officers undertaking the quotation process are responsible for the selection of suppliers. Suppliers selected for quotation **should** be located in the Tower Hamlets area unless a good business reason exists for selecting suppliers who are not based locally.
- 25.3. The Procurement Threshold table in section 6.2 of the Procedures sets out the required number of quotations for each level and the process to be followed.

### **26. Evaluation and contact award**

- 26.1. Evaluation criteria for level one and two quotations **CAN** be based on cost only or cost and quality.
- 26.2. Evaluation criteria for level three quotations (£50,001 – £100,000) **MUST** be based on cost and quality.
- 26.3. In the case of nil response to a quotation exercise, the project manager should investigate the reasons for the lack of responses prior to commencing a new RFQ.
- 26.4. In the event only one quotation is received for level two and three quotation exercises, the evaluation must still be undertaken in accordance with the evaluation criteria. Upon completion, the project manager will need to assess whether the submission received satisfies the requirements and is acceptable to proceed to award or if required commence a new RFQ.
- 26.5. All contracts up to £100,000 **must** be awarded through the RFQ system.

### **27. Clarification and additional information**

- 27.1 All bidder queries relating to RFQ should be in writing and managed through the RFQ system. In circumstances where a clarification response is assessed not be commercially restricted to a single bidder then the question and response should be released to all bidders without disclosing the identity of the originating bidder.

27.2 Further clarifications regarding quotation(s) received before contract award may be necessary. This might include areas of ambiguity, assumptions or possible errors. In such circumstances, all clarifications must be treated as commercial in confidence and managed through the RFQ system.

## **28. Timescales for Quotations**

28.1. All requests for quotation include a default minimum of seven working days for the return of responses. This time period can be amended to allow a longer period where it is deemed necessary.

## **29. Terms and Conditions**

29.1 All Requests for Quotation are invited with the Council's standard terms and conditions, which must be issued to suppliers with each RFQ. In the event that the standard terms and conditions are unsuitable, any alternative terms must be agreed with Legal Services.

## **30. Use of Purchasing Cards**

30.1. Purchase Cards are to be used to order low value supplies and services (e.g. hotels, business travel and tickets) that do not require the additional risk management of terms and conditions encompassing orders or contracts, and only where there is no existing contract or suitable supplier available on the e-procurement system.

30.2. Purchasing Cards are to be used in accordance with the Visa Card User guide and associated documents available through the Corporate Procurement area on the Council intranet. The transactions **must** be reviewed and authorised in the Purchasing Card monitoring system. Any misuse may result in the Purchasing Card being withdrawn and lead to disciplinary action.

## **PART 4 - APPLICABLE TO CONTRACTS IN EXCESS OF £100,000**

### **31. Competition**

31.1. All contracts with a value in excess of £100,000 must be procured through Corporate Procurement to ensure compliance with the requirements of the Public Contracts Regulations 2015.

31.2. The Public Contracts Regulations set out detailed procedures for the award of contracts over specific thresholds. Details of the current thresholds are given below and are net of VAT.

	SUPPLIES	SERVICES	WORKS	LIGHT TOUCH REGIME	CONCESSION
Local Government	£164,176	£164,176	£4,104,394	£589,148	£4,104,394

### **32. Forward Plan**

32.1. Corporate Directors must ensure that all contracts to be tendered are entered onto the forward plan of contracts, administered by Corporate Procurement at the earliest opportunity but with a minimum of six months before commencement of the procurement unless circumstances of urgency apply.

### **33. Project Initiation Form**

33.1. In preparation for the Tendering exercise the Procurement Initiation Form (PIF) must be completed. The PIF will include:

- a) Identification and definition of needs;
- b) Options appraisal and business case development;
- c) A review of market conditions;
- d) Assessment of scope for collaboration; internally, externally with other organisations or the voluntary sector;
- e) Review of the implications for HR issues, sustainability, equalities, local businesses, etc;
- f) An analysis of the potential for achieving financial savings;
- g) Project planning, including definition of roles and responsibilities throughout the process;
- h) Risk analysis and recording on risk registers as appropriate
- i) Determining the process for contract management, including the arrangements for collating on a routine basis the financial and performance information needed to evaluate the effectiveness of the procurement exercise;

- j) Where an external agent is to be involved in the preparation of specifications, tender documentation, tender evaluation or any other procurement activity in relation to a contract, a declaration of interest and a confidentiality agreement must be completed;
- k) Service Heads or officers with delegated power must assess any potential conflict of interest and seek advice from Legal Services. The procurement should not proceed until such time as the assessment is made;
- l) Any disclosure of conflict of interest in a procurement process will be assessed by the Corporate Procurement and Legal Services on a case-by-case basis. Individuals will be excluded on a case-by-case basis from the procurement process where the identified conflict is material and/or cannot be mitigated.

33.2. Corporate Procurement **must** be contacted as early as possible and full support given to enable the Procurement Instruction Form (PIF) to be fully completed.

33.3. No commitment can be made, and the procurement process **must not** commence, before this has taken place, and procurement advice on how to proceed has been received.

33.4. Corporate Procurement in liaison with the project manager and Legal Services will assess the procurement strategy, specification requirements and market conditions to determine the most suitable procurement procedure to employ and what internal governance measures are required.

33.5. For tenders above the EU threshold, and as part of the PIF process, Corporate Procurement will advise on current EU Law. EU Law is frequently evolving, so you should not assume guidance previously given will be unchanged in the future.

#### **34. Cabinet Approval – Automatic Referral**

34.1. Nothing in these rules obviates the requirement within the Constitution that “The contracting strategy and/or award of any contract for goods (supplies) or services with an estimated value exceeding £250,000, and any contract for capital works with an estimated value exceeding £5,000,000, shall be approved by the Cabinet in accordance with the Procurement Procedures.”

34.2. In order to comply with this requirement, the Head of Corporate Procurement will submit a quarterly report to Cabinet, laying down a forward plan of contracting exercises across the Council for the forthcoming 12 months. This report will identify all contracts with a value exceeding £250,000 (for services and supplies) and £5m (for works) during the period in question, and will seek Cabinet’s approval to the outline contracting strategies.

34.3. Cabinet will be invited to identify those contracts they consider to be key decisions, and about which they wish to receive further reports on prior to contract award. The Corporate Director must ensure that the Head of Corporate Procurement is notified in good time in order to ensure that contracts are included in this report.

34.4. Prior to review by Cabinet, the Strategic Competition Board must have reviewed the strategy and/or award proposal.

### **35. Cabinet Approval – Referral by Head of Corporate Procurement**

35.1. If in the view of the Head of Corporate Procurement, either a contract strategy or contract award needs to be approved by Cabinet, the project lead must submit the relevant report to the next available Cabinet meeting, after it has been presented to the Strategic Competition Board, and must not proceed with either the contracting process or the contract award until Cabinet approval has been obtained.

### **36. Tollgate Process**

36.1. Contracts for supplies and services in excess of £250,000 in value, or for capital works in excess of £5,000,000 in value, will be subject to the Council's Tollgate Review Process. This is a procurement project appraisal methodology which assesses the health of the project, makes recommendations for improved outcomes and, where appropriate, provides a post-contract peer review. The Tollgate process is administered by Corporate Procurement on behalf of the Strategic Competition Board. Contracting officers must respond appropriately to recommendations in tollgate reports. In respect of contracts in excess of £250,000 (supplies & services) or £5,000,000 (capital works), you must obtain the approval of the Strategic Competition Board at two key points in the contracting cycle:

- a. To obtain agreement to the contracting strategy, prior to inviting tenders; and
- b. To obtain agreement to award contract, prior to issuing any award notification

36.2. The Procurement Cycle, including the Tollgate procedure, is set out in Appendix 1.

#### **Rule 8**

- Where the Contract is subject to the tendering rules of the EU Public Procurement Regulations, then those rules shall apply to the letting of the

Contract.

- The contracting strategy for contracts for supplies and services in excess of £250,000 in value, or for capital works in excess of £5,000,000 in value, will be subject to Cabinet approval.

### **37. Engagement with the Strategic Competition Board**

- 37.1. The approval of the Strategic Competition Board will normally be through the internal Tollgate process. In the case of urgency, approval may be granted to the Contracting Strategy (but not the contract award) by the Head of Corporate Procurement and the Divisional Director of Legal Services with a subsequent report to the Strategic Competition Board.

### **38. Timescales**

- 38.1. The Public Contract Regulations set out specific timescales for the letting of contracts for supplies, services and works above the EU threshold. It also sets out specific procedures and timescales to be followed. An appropriate timetable must be drawn up in liaison with Corporate Procurement and Legal Services.

### **39. Tender Documentation**

- 39.1. In inviting Tenders from suppliers, the Tender packs which are issued to suppliers must as a minimum include: Form of Tender, Valuing Diversity, Supply chain Ethical Code of Conduct, Confidentiality Agreement, Bona Fide and Anti-Collusion Certificate, Freedom of Information Disclosure, Conflict of Interest Declaration, Subcontractor or Consortium Member, Specifications, Quality Statements, Cost Schedule and Terms and Conditions
- 39.2. Local Employment and Community Benefits are intended to improve the economic, social or environmental wellbeing of the Council's area in addition to the main purpose of the contract. The Local Employment and Community Benefit must be considered in all relevant contracts above £100,000 and considered on appropriate contracts below £100,000.

### **40. Terms and conditions**

- 40.1. The Terms and Conditions of a contract will be drafted by Legal Services and incorporated as part of the Tender pack. Where a bidder rejects acceptance of the Terms and Conditions (expressly, or by qualifying, caveating or supplying their own terms and conditions), the bid should be rejected as non-compliant.

- 40.2. Variations to the Terms and Conditions proposed by a bidder **must** only be accepted with the approval of Legal Services.

## **41. Tender Clarification and Additional Information**

### Pre-tender clarification

- 41.1. All queries from the bidders relating to the invitation to tender should be in writing through the e-procurement system. Where questions are considered of relevance to the subject matter of the contract and likely to affect some or all bidders' response to the tender, the clarification from the Council must be released to all bidders with the questioner's identity kept confidential.
- 41.2. Where the question is specific to one of the bidders (and therefore irrelevant to the submissions of the other bidders), it may be kept confidential between the Council and that bidder.

### Post-tender clarification and request for additional information

- 41.3. Tender clarifications may be necessary in order to clarify areas of ambiguity, assumptions or possible errors in the cost and delivery of specifications. Clarifications must be fairly undertaken against the requirements specification released to all suppliers. In certain circumstances, it may be necessary to issue a response to a clarification to all bidders. Equally, competition must not be distorted by allowing any bidders to improve their offer without giving the same opportunity to all other bidders.

## **42. Negotiations**

- 42.1. Tender negotiations refer to the discussions that take place between a Council's officers and the bidders. Unless expressly allowed for within the procedure, tender negotiations must not be conducted as they distort competition and adversely affect trust in the competitive bidding process and contravene procurement regulations. Under no circumstances is it permissible to use the lowest bid to seek a reduction in costs from the other bidders.
- 42.2. Only under specific circumstances laid down in the PCR 2015, and with the agreement of the Head of Corporate Procurement and Head of Legal Services will it be acceptable to negotiate as part of a procurement process. Prior to entering into negotiations, agreement and advice must be obtained from Legal Services and Corporate Procurement, and the process must be

conducted in a fair manner that does not disadvantage or show undue favour to any tenderers. All negotiations must be fully documented.

### **43. Tender Evaluation**

- 43.1. Evaluation criteria must be decided in advance of the advert and clearly stated in the tender documentation. All contracts must be awarded on the basis of most economically advantageous tender. For contracts over £100,000 a minimum of three officers must be involved in the evaluation of tender responses.

### **44. Supplier Selection Criteria**

- 44.1. Selection Criteria (through the Standard Questionnaire – the SQ) are used to assess a bidder's ability to perform the proposed contract. Selection Criteria can apply at pre-tender stage in order to short-list bidders or, as part of the Open Procedure, to determine which bidders' tender submissions can be considered. Where a SQ evaluation is required, the statutory Selection Questionnaire published by Crown Commercial Services must be used.
- 44.2. There is statutory guidance on the use of the SQ and Corporate Procurement and Legal advice must be sought before the SQ is used. There are very limited criteria under which potential suppliers may be ruled out at the SQ stage.
- 44.3. Where a SQ evaluation is required, the SQ will be issued and returned electronically via the Council's e-procurement systems with appropriate access given to officers to evaluate online. The tender documentation must clearly state the minimum requirements and how they will be assessed.

### **45. Supplier Award Criteria**

- 45.1. Award Criteria are used to identify the tender that is the most economically advantageous to the Council. This will be the optimum combination of cost and quality benefits. Requirements must be related and proportionate to the subject-matter of the contract, and be clearly set out in the Contract Notice together with the means of proof, where appropriate.
- 45.2. Where Local Employment and Community Benefits are included as part of the award criteria, its weighting must not be more than 5% of the overall quality assessment.

### **46 Tender Report**



- 46.1 A full tender report should be prepared by the Project Manager and kept on file. The report should include a complete review of the bidding strategy, methods used, details of bids received, and any justification for the opening of any late bids, the actual written approval for opening late bids, detailed bid evaluation and recommendations for award.

## **47 Debriefing**

- 47.1 For EU tenders supplier debriefs are a statutory requirement and must be completed within 15 days of the date of the receipt of a written request from the tenderer. Legislation requires a comparison between the bid of the person being debriefed with the winning bid. This must be done in such a way as to comply with the regulations without breaching the FOIA. If you have any doubt as to how to proceed, guidance should be sought from Corporate Procurement and Legal Services.

## **48 Contract Award**

- 48.1 Corporate Directors or Divisional Directors are responsible for signing contract award letters in respect of all contracts with a value between £100,000 and £250,000 for supplies, services; and works below £5,000,000.
- 48.2 Corporate Directors are responsible for signing contracts award letters in respect of all contracts with a value equal or above £250,000 for supplies, services; and works above £5,000,000.
- 48.3 When no bids are received in response to a tender undertaken in accordance with these procurement procedures, the project manager should investigate the reasons for the lack of responses.
- 48.4 Where only one bid is received, the evaluation may still be undertaken in accordance with the tender evaluation criteria. Once this is concluded, the Project Manager will need to assess whether the submission received is sufficient (such assessment to include consideration of best value and value for money) for the Council to proceed to award or whether it would be in the Council's best interest to re-tender.
- 48.5 Alternatively, but only on the advice of Corporate Procurement and Legal Services, it may be appropriate to invoke a negotiated process with the single supplier.
- 48.6 When a procurement exercise is to be abandoned, the Divisional Directors or Corporate Directors must authorise the decision. The Head of Procurement may request that the tender report for the procurement exercise is presented to Strategic Competition Board for approval.



## **PART 5 – EXCEPTIONS TO THE PROCUREMENT PROCEDURES**

### **49 Valid Exceptions to the Procurement Procedures**

- 49.1 All contracts must follow a quotation or tender process in accordance with this procedures unless, either:
- a. A waiver via the completion of a Record of Directors Action (RCDA) is obtained from the relevant Corporate Director, in accordance with the RCDA Guidance; or
  - b. An existing, recognised consortium contract or framework, which has gone through an appropriate competitive tendering process, is being used in line with section 15. The Framework requirements to award a Call-off contract must be followed, either through a mini-competition or a direct call off process; or
  - c. An existing term contract, Framework or appropriate arrangement let by the Council, which complies with these rules, is being used (see section 13) ; or
  - d. The contract is to be funded in full by another public or voluntary organisation that has requested in writing that its own procedures are followed, subject to compliance with European law.

Corporate Procurement and Legal services must be involved in the award of such contracts where the value exceeds £100,000 the completion of a PIF and a Contract Award Report may be required.

### **50 Record of Corporate Director's Actions (RCDA) - Waiving of Procurement Procedures**

- 50.1 Procurement Procedures may be waived by a Corporate Director in liaison with the Head of Corporate Procurement and the Head of Legal Services, where the total value of the contract does not exceed the value of £164,176 (this is cumulative where there are a series of RCDAs in a period of 12 months), after considering a written report (RCDA) by the appropriate officer, that the waiver is justified because:
- a. The nature of the market for the works to be carried out or the supplies or services to be provided has been investigated and has demonstrated that only a single source of supply is available, or
  - b. On balancing the risk and circumstances, it is clearly in the Council's interest to do so; or
  - c. The contract is for works, supplies or services that are required in circumstances of extreme urgency that could not reasonably have been

foreseen – e.g. to protect life or property when no existing contractual arrangement is in place, or if the purchase is needed to urgently comply with an order of Civil or Criminal Court; or

- d. The purchase is from a supplier where there is an existing obligation to the Council (e.g. under a warranty to contribute to the cost).
- e. Variations of contracts that do not fall within the exceptions listed in section 24.3

50.2 Corporate Director's Actions must be used only in the circumstances listed above, and not to compensate for poor planning or a desire to retain incumbent suppliers through avoidance of competition.

50.3 A record of the decision approving a waiver and the reasons for it must be published on the Council's website once the decision has been taken and kept in a departmental Register of Corporate Directors' Actions.

50.4 Corporate Director's Actions in respect of contracts over £100,000 must be reported to Corporate Finance for submission to the next available meeting of the Cabinet.

50.5 Corporate Directors' Actions must be completed on the appropriate form.

50.6 Waivers of the Procurement Procedures relating to contracts in excess of the OJEU threshold can only be made by a decision of the Mayor, either in Cabinet or through an Individual Mayoral Decision. In such circumstances, consideration must be given to the requirements set out within the Public Contracts Regulations 2015.

#### **Rule 10**

- Where the Procurement Procedures apply to a Contract a Corporate Director's Action may be taken to waive any provision, so long as it is justified in accordance with section 50 and this will not lead to a breach of UK or EU legislation.
- Waivers granted by the relevant Corporate Director must be agreed by the Head of Corporate Procurement and the Legal Monitoring Officer.
- Waivers are an exception and must not be sought unless absolutely necessary.
- Corporate Director Waivers in respect of contracts over £100,000 must be reported to the next available meeting of the Cabinet.
- Where there is any doubt about an action breaching UK or EU Legislation advice from Legal Services must be sought.

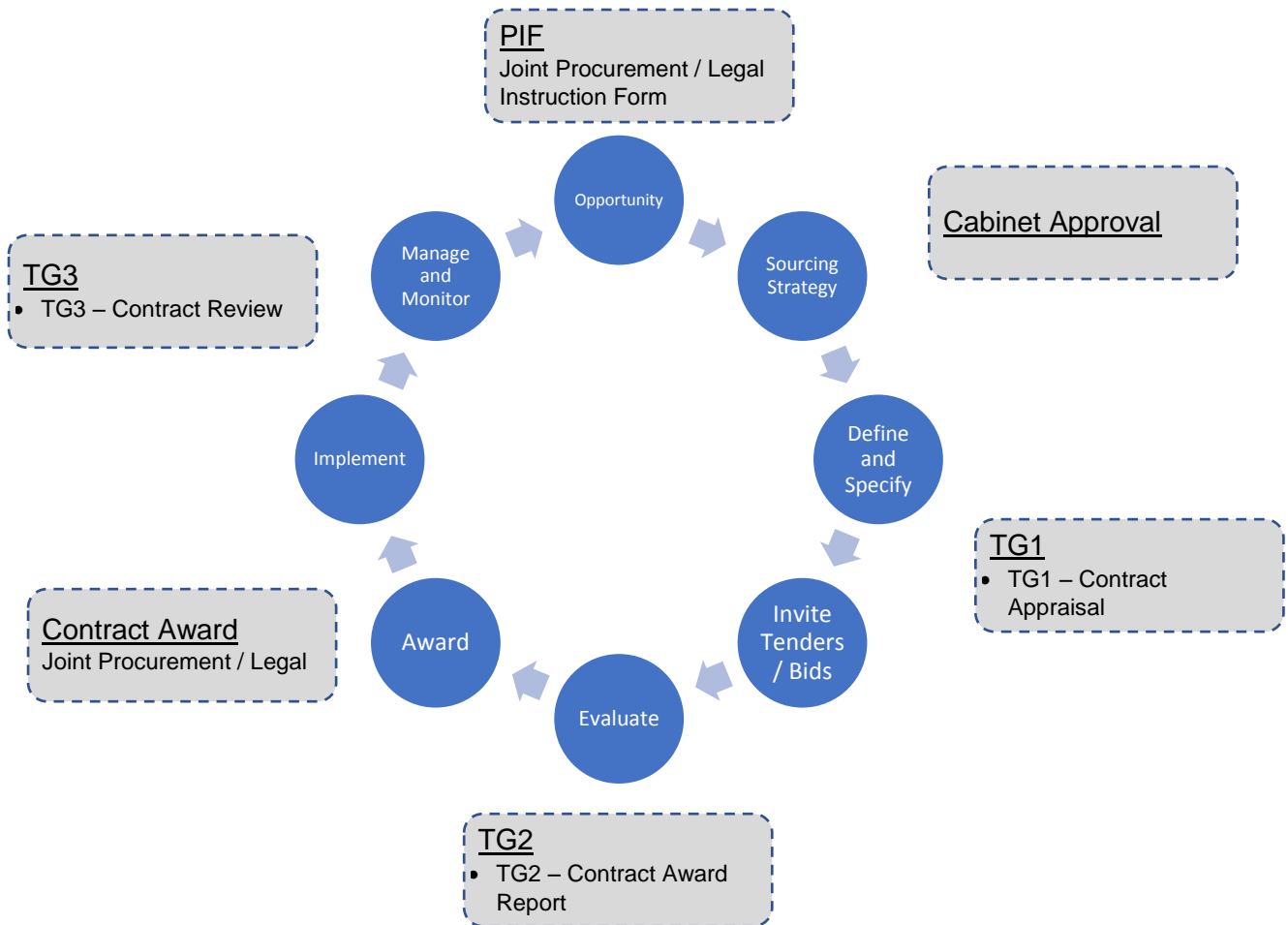
- A record of the decision approving a waiver and the reasons for it must be kept in a Departmental Register of Corporate Directors' Actions.

### Appendix 1: Tollgate process

Purchases of goods and services in excess of £250k in value, or for capital works in excess of £5m in value are subject to the Councils Tollgate Process.

The Tollgate Process examines projects at key decision points in their lifecycle to determine the likelihood of successful delivery of the project, adherence to the Council Strategy and Community Plan and compliance with existing Policies and Procedures.

### Procurement Cycle



## **Project Initiation Form (PIF)**

The Procurement Instruction Form acts as the initiation of a procurement project and must be completed to instruct Corporate Procurement and Legal Services to support the identified project. This will involve a joint assessment between stakeholders and the procurement category manager.

Assessment will include:

- Identification of project resource to complete the procurement.
- Background and Strategic fit: summary of supplies and works being procured; justification for contract; key changes to current arrangements; link with Council's strategy and objectives.
- Market Assessment: market conditions; possible collaboration; procurement options.
- Financials - Cost and benefit realisation: initial contract value; funding streams; efficiencies.
- Approach to risk management; controls, mitigation and monitoring.
- Agreed procurement timetable

## **Tollgates 1, 2 and 3**

Tollgate reviews will take place for contracts for supplies and services in excess of **£250,000** or capital works in excess of **£5,000,000**.

The review is undertaken in a two stage process by: Competition Planning Forum and Strategic Competition Board.

### **a) Tollgate 1**

Tollgate 1 is completed in liaison with the procurement category manager and **MUST** be signed off by the Project Sponsor (Service Head) and presented to Competition Planning Forum, who will review and make recommendation to Strategic Competition Board for approval with any specific recommendations prior to any advert being placed. Tollgate 1 will examine:

- The outcomes and objectives for the programme
- Confirm that the programme's potential to succeed has been considered in the wider context of Council's policy and procurement imperatives
- Programme takes account of joining up with other programmes, internal (consolidation) and external (collaboration)

- Arrangements for identifying and managing risks
- Provision for financial and other resources has been identified, including a minimum of 10% savings.
- Local Employment and Community Benefits are included and appropriate.
- Sustainability strategy has been outlined.
- LLW has been factored in the cost.
- Procurement is supported by key stakeholders and has been appropriately communicated to Lead Member and to Cabinet.

## **b) Tollgate 2**

Tollgate 2 is completed in liaison with the procurement category manager and MUST be signed off by the Project Sponsor (Service Head) and presented to Competition Planning Forum who will review and make recommendation to Strategic Competition Board for approval with any specific recommendations prior to contract award.

Tollgate 2 objectives are to ensure:

- The Business Case is still valid and unaffected by internal and external events or changes.
- The original projected business benefit are to be achieved
- There are feasible and tested business contingency, continuity and/or reversion arrangements in place.
- All on-going risks and issues are being managed effectively and do not threaten implementation.
- Contract management arrangements are in place.
- Lessons for future projects are identified and recorded
- Recommendations from TG1 have been actioned.
- Compliance with all internal governance and reporting procedures

## **Tollgate 1 and 2 combined**

In exceptional circumstances, where it is agreed for a TG1 and TG2 may be combined (5.23), a detailed contract award report (TG2-Report) must be completed in liaison with the procurement category manager and must be signed off by appropriate Project Sponsor (Service Head).

## **c) Tollgate 3**

High risk contracts or contracts with a value in excess of £1,000,000 will be selected by Strategic Competition Board to present a review report after initial 12 months into the life of the contracts.

Tollgate 3 report will be completed by the contract managers. Procurement Category Managers will provide guidance on report requirements.

The report will be presented by the Contract Manager to Strategic Competition Board which may provide specific recommendations.

The purpose of the Tollgate 3 is to assess:

- There is still a business need for the investment.
- Financial and efficiency benefits are being realised.
- Funding issues and risks
- Variations are being recorded and reported in accordance with the Council's Procurement Procedures.
- Contract Monitoring and Management arrangements in place
- Where applicable, confirm the validity of exit strategy and arrangements for re-competition.
- Local Employment and Community Benefits achievement.
- Compliance with policies and procedures and corrective measures where non-compliance has occurred.



## 38 Officer Employment Procedure Rules

### CONTENTS

Rule	Subject
1	General
2	Recruitment and Appointment
3	Recruitment of Head of Paid Service and Chief Officers
4	Appointment of Head of Paid Service
5	Appointment of Chief Officers and Deputy Chief Officers
6	Procedure for the Appointment of Chief Officers and Deputy Chief Officers
7	Other Appointments
8	Disciplinary Action
9	Dismissal
10	Appeals
11	Designation as Statutory Officer

#### 1. GENERAL

- 1.1 Subject to Rule 1.2 and Rule 10 below, the function of appointment and dismissal of, and taking disciplinary action against, a Member of staff of the authority must be discharged, on behalf of the authority by the Head of the Paid Service or by an officer nominated by her/him.
- 1.2 Rule 1.1 shall not apply to the appointment or dismissal of, or disciplinary action against:
- (a) The Head of the Paid Service;
  - (b) A statutory chief officer within the meaning of section 2(6) of the Local Government and Housing Act 1989;
  - (c) A non-statutory chief officer within the meaning of section 2(7) of the Local Government and Housing Act 1989;
  - (d) A deputy chief officer within the meaning of section 2(8) of the Local Government and Housing Act 1989 (subject to Rule 5.6 below);
  - (e) A political assistant appointed in pursuance of section 9 of the Local Government and Housing Act 1989; or
  - (f) A Mayor's assistant appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the Local Government Act 2000.

#### 2. RECRUITMENT AND APPOINTMENT

##### 2.1 Declarations

- (a) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of the Mayor or an existing Councillor or officer of the Council; or of the partner of such persons.
- (b) No candidate so related to the Mayor or a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by her/him.

## **2.2 Seeking support for Appointment**

- (a) The Council will disqualify any applicant who directly or indirectly seeks the support of the Mayor or any Councillor for any appointment with the Council. The content of this Rule will be included in any recruitment information.
- (b) Neither the Mayor nor any Councillor will seek support for any person for any appointment with the Council.
- (c) Neither the Mayor nor any Councillor shall give a reference (oral or written) for a candidate for employment by the Council.

## **3. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

### **3.1** Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed.
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in Rule 3.1(a) to be sent to any person on request.

## **4. APPOINTMENT OF HEAD OF PAID SERVICE**

### **4.1** Where a Committee, Sub-Committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to that person.

**4.2** The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by an Appointments Sub-Committee established in accordance with Rule 5.1 below. That Sub-Committee must include at least one Member of the Executive.

**4.3** The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any Member of the Executive.

## **5. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

**5.1** The Chief Executive will establish Appointments Sub-Committees upon criteria approved by the General Purposes Committee comprising relevant Members to make appointment to Chief Officer and Deputy Chief Officer posts. Any Appointments Sub-Committee established in accordance with this rule must include at least one (1) Member of the Executive.

**5.2** Engagement of Chief Officers, to permanent positions or interim positions of over three (3) months, will be through the normal recruitment process overseen by the General Purposes Committee. The Chief Executive may make appointments to interim positions of up to three (3) months.

**5.3** An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any Member of the Executive has been received. Subject to Rule 5.5 below, in these Rules, chief officers are defined as:

(a) the Chief Executive (as Head of Paid Service)

(b) the statutory Chief Officers, (including the Chief Financial Officer, Corporate Director, Children's Services, Corporate Director, Adults' Services, and the Monitoring Officer)

(c) the non-statutory chief officers which are:

(i) Officers for whom the Chief Executive is responsible (other directors);

(ii) Officers who report to or who are directly accountable to the Chief Executive by virtue of the nature of their duties; and

(iii) Officers who report to or who are directly accountable to the Council itself or any committee of the Council by virtue of the nature of their duties.

**5.4** Subject to Rule 5.5 below, in these Rules, deputy chief officers are defined as officers in departments who, by virtue of the nature of their duties, either report to or are directly accountable to the statutory or non-statutory chief officer responsible for that department.

**5.5** Rules 5.3 and 5.4 do not apply to:

- (a) officers whose duties are solely secretarial and clerical or are in the nature of support services; or
- (b) Head Teacher and Deputy Head Teacher posts in schools with delegated budgets.

**5.6** The procedure in this section for appointing chief officers and deputy chief officers shall only apply to the following post within the Governance Directorate:

- Corporate Director, Governance

Appointments to all other posts shall be the responsibility of the Head of the Paid Service or a person nominated by her/him.

**5.7** The appointment of a statutory chief officer may not occur unless the prior written agreement of the DCLG Commissioners has been obtained for such an action.

## **6. PROCEDURE FOR THE APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

**6.1 Appointments Sub-Committee Membership.** The Chief Executive, will set up an Appointments Sub Committee upon criteria approved by the General Purposes Committee comprising relevant Members to make appointments to chief officer and deputy chief officer posts.

**6.2 Appointment Process.** The following process will apply after an Appointments Sub Committee has interviewed all shortlisted candidates:

- (a) If the Sub Committee agree on a candidate suitable for the post, they will indicate their 'provisional intention to make an offer' to the Chief Executive.
- (b) The Sub Committee will inform the Chief Executive of the name of the candidate to whom they wish to make an offer together with any other particulars which the Sub Committee considers relevant in making the appointment.
- (c) The Chief Executive will notify the Mayor and each other Member of the Executive within twenty-four (24) hours of:
  - (i) The name of the person the Sub-Committee wish to make an offer to.
  - (ii) Any other particulars relevant to the appointment notified by the Sub-Committee.

- (iii) The period within which any objection to the making of the offer is to be made by the Mayor on behalf of the Executive to the Chief Executive.
- (iv) The period of objection will normally be two (2) working days. If the period of objection is to be shortened, then notification will be by telephone and e-mail.
- (v) If:
  - (1) The Mayor, within the period of objection, notifies the Sub-Committee that neither they or any other Member of the Executive has any objection to the making of the offer; or
  - (2) The Chief Executive notifies the Sub-Committee that no objection has been received by him/her within the objection period from the Mayor,
 the 'provisional intention to make an offer' will become a firm offer and the offer of appointment may be made without the need for the Sub-Committee to re-convene.
- (vi) If an objection is received within the objection period from the Mayor on behalf of the Executive, the Sub-Committee will reconvene to consider the objection. If the Sub-Committee is satisfied that any objection received from the Mayor is not material or is not well founded, they may confirm their decision and a formal offer will be made.

## **7. OTHER APPOINTMENTS**

- 7.1** Officers below Deputy Chief Officer. Appointment of officers below deputy chief officer (other than any assistants to the political groups and any Mayor's assistant as defined at (e) and (f) respectively of Rule 1.2 above) is the responsibility of the Head of Paid Service or her/his nominee, and may not be made by the Mayor or Councillors.
- 7.2** Assistants to Political Groups. Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- 7.3** Mayor's Assistant. Appointment of a Mayor's Assistant shall be made in accordance with the wishes of the Mayor.

## **8. DISCIPLINARY ACTION**

### **8.1** In this Rule 8:

- "the 2011 Act" means the Localism Act 2011;
- "independent person" means a person appointed under section 28(7) of the 2011 Act;

- “local government elector” means a person registered as a local government elector in the council’s area
- “The Panel” means a committee appointed by the Council for the purposes of advising the Council on matters relating to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer;
- “relevant meeting” means a meeting of the Full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Monitoring Officer or Chief Financial Officer

**8.2 Suspension.** The Head of the Paid Service, the Monitoring Officer or the Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and may last no longer than two (2) months.

**8.3** The Head of Paid Service, Monitoring Officer or Chief Financial Officer may not be dismissed unless the procedure set out in the following Rule 8.3 (a) to (g) is complied with:

- (a) The Council must invite relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two (2) such persons to the Panel.
- (b) In paragraph (a) above “relevant Independent Persons” means any Independent Person who has been appointed by the Council, or where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate
- (c) Subject to paragraph (d), the Council must appoint to the Panel such relevant Independent Persons who have accepted an invitation issued in accordance with paragraph (a) in accordance with the following priority order –
  - (i) a relevant Independent Person who has been appointed by the Council and is a local government elector;
  - (ii) any other relevant Independent Person who has been appointed by the Council;
  - (iii) a relevant Independent Person who has been appointed by another authority or authorities
- (d) the Council is not required to appoint more than two (2) relevant Independent Persons in accordance with paragraph (c) but may do so
- (e) the Council must appoint any Panel at least twenty (20) working days before the relevant meeting

- (f) before the taking of the vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular –
  - (i) any advice, views or recommendations of the Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations of the officer whose dismissal is being considered at the meeting
- (g) any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as Independent Person under the 2011 Act.

**8.4 Involvement of Members in Disciplinary Action.** Neither the Mayor nor any Member of the Council will be involved in disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to Members in respect of disciplinary action.

**8.5** A Disciplinary Policy and Procedure for the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer shall from time to time be issued or updated. That document does not form part of the Council's Constitution but should be read alongside these Officer Employment Procedure Rules.

## **9. DISMISSAL**

**9.1** Neither the Mayor nor any Member of the Council will be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time which may allow a right of appeal to Members in respect of dismissals.

**9.2** Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

**9.3** Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the dismissal of any officer referred to at (a) to (d) of Rule 1.2 above, at least one member of the Executive must be a member of that committee or sub-committee.

**9.4** Where the authority or a Committee, Sub-Committee or officer (“the dismissor”) proposes to dismiss:

- The Head of the Paid Service;
- A statutory chief officer;
- A non-statutory chief officer; or
- A deputy chief officer,

notice of dismissal must not be given until the dismissor has notified the Head of the Paid Service (or where the officer to be dismissed is the Head of the Paid Service, the Monitoring Officer) of the name of the person whom the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal; and

- (a) The Head of the Paid Service, or as the case may be, the Monitoring Officer, has notified the Mayor and every other member of the Executive of:
  - (i) The name of the person whom the dismissor wishes to dismiss;
  - (ii) Any other particulars relevant to the dismissal which the dismissor has notified; and
  - (iii) The period within which any objection to the dismissal is to be made by the Mayor on behalf of the Executive to the Head of the Paid Service/ Monitoring Officer; and
- (b) Either:
  - (i) The Mayor has, within the period specified in the notice under 9.4(b) above, notified the dismissor that neither they nor any other Member of the Executive has any objection to the dismissal; or
  - (ii) The Head of the Paid Service/Monitoring Officer has notified the dismissor that no objection was received by her/him within that period from the Mayor; or
  - (iii) The dismissor is satisfied that any objection received from the Mayor within that period is not material or is not well founded.

**9.5** If a valid objection is made by the Mayor to a dismissal proposed by a Committee or Sub Committee that body shall re-convene to consider the



objection. If the Committee or Sub Committee is satisfied that the objection is not well founded they will confirm their decision.

## **10. APPEALS**

- 10.1** Nothing in Rule 1.1 above shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:-
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **39 London Borough of Tower Hamlets: Members' Allowances Scheme**

**This Scheme is made by the London Borough of Tower Hamlets in accordance with the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003 as amended.**

1. This Scheme shall be called The London Borough of Tower Hamlets Members' Allowances Scheme 2021 and it shall come into effect on 1 April 2021. The Scheme shall apply to the Mayor, Councillors and Co-opted Members of the London Borough of Tower Hamlets.

### **Basic Allowance**

2. Subject to paragraph 8, a basic allowance of £11,693 shall be paid to each Councillor for each year. The Basic Allowance shall not be payable to the elected Mayor.
3. The basic allowance of £11,693 shall be payable with effect from 1 April 2021.

### **Special Responsibility Allowance**

4. Subject to paragraphs 5-8, a special responsibility allowance shall be paid for each year to those Members who hold a position of special responsibility as specified in Schedule 1.
5. The amount of each such allowance shall be the amount specified against the respective special responsibility in Schedule 1 and it shall be payable with effect from 1 April 2021.
6. Any special responsibility allowance payable under paragraphs 4 and 5 shall be in addition to the basic allowance payable under paragraph 2 above.
7. Any Member who holds more than one position of special responsibility shall receive only one special responsibility allowance which shall be at the higher level.

### **Part-Year Entitlement**

8. If, in the course of the year, this scheme is amended or a Member's entitlement changes, the relevant basic and/or special responsibility allowance shall be calculated and paid pro-rata during the particular month in which the scheme amendment or entitlement change occurs.

### **Dependants' Carers' Allowance**

9. A maximum of £10.85 per hour shall be paid to those Members who necessarily incur expense in arranging for the care of their children or other

dependants to enable them to undertake any of the activities specified in Schedule 2 to this Scheme.

- 10.** The following conditions shall apply:
- payments shall be claimable for children aged 15 or under or for other dependants where there is medical or social work evidence that care is required;
  - only one weekly payment shall be claimable for the household of each Member, unless the Council's Standards Advisory Committee considers there are special circumstances;
  - the allowance shall be paid as a re-imbursement of incurred expenditure against receipts;
  - the allowance shall not be payable to a member of the claimant's own household;
  - any dispute as to entitlement and any allegation of abuse shall be referred to the Council's Standards Advisory Committee for adjudication.

### **Indexation**

- 11.** The Basic, Special Responsibility, Mayor's and Dependants' Carers' Allowances will be adjusted to reflect the annual pay settlement for local government staff effective 1 April 2021. The Dependents' Carers' Allowance will also be adjusted to, as a minimum, be in line with the London Living Wage.

### **Travel and Subsistence Allowance**

- 12.** An allowance shall be paid to any Member for travelling and subsistence undertaken outside the Borough in connection with any of the duties specified in Schedule 2.
- 13.** An allowance shall be paid to a co-opted member of a Committee, Sub-Committee or Panel of the Council for travelling and subsistence in connection with any of the duties specified in Schedule 2, irrespective of whether the meeting or duty is inside or outside the Borough.
- 14.** The amounts payable shall be the amounts which are for the time being payable to officers of the Council for travelling and subsistence undertaken in the course of their duties.

### **Co-optees' Allowance**

- 15.** Subject to paragraph 16, a co-opted member of the Standards Advisory Committee, the Overview and Scrutiny Committee or any of its Sub-Committees, may claim a co-optee allowance of £132 and a co-opted

member who is appointed as Chair of the Standards Advisory Committee may claim a co-optee allowance of £267, for attendance at any meeting of the Committee or the Panel or attendance at any conference or mandatory training event, where attendance is on behalf of and authorised by the Council.

16. A claim for co-optees' allowance shall be made in writing within two months from the date of attendance at the meeting, conference or training event.
17. Where a member is suspended or partially suspended from his or her responsibilities or duties as a co-opted member under Part III of the Local Government Act 2000, any co-optee's allowance payable to him or her for the period for which he or she is suspended or partially suspended, may be withheld by the Council.

### **Maternity, Paternity, Adoption and Sickness Pay**

18. All Members shall continue to receive their Basic Allowance in full in the case of maternity, paternity, adoption and sickness leave.
19. Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in the case of maternity, paternity, adoption and sickness leave in the same way that the Council's employees enjoy such benefits.
20. If a replacement to cover the period of absence is appointed by Council or the Mayor (or in the case of party group position, the party group) the replacement will be entitled to claim a Special Responsibility Allowance.

### **Recovery of Allowances Paid**

21. Any allowance that has been paid to a Member after he or she has ceased to be a member of the Council, or is for some other reason not entitled to receive the allowance for a specified period, may be recovered.

### **Claims and Payments**

22. Payments shall be made for basic and special responsibility allowances in instalments of one-twelfth of the amounts respectively specified in this Scheme, paid on the last working day of each month.
23. Where a payment of one-twelfth of the amount specified in this Scheme for a basic or special responsibility allowance will result in the Member receiving more than the amount to which he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
24. A claim for travelling and subsistence or dependants' carers' allowance;

- shall be made in writing within two months from the date of the performance of the duty for which the claim is made;
- shall be accompanied by receipts and/or any relevant evidence of the costs incurred;
- shall be subject to such validation and accounting procedures as the Council's Corporate Director, Resources may from time to time prescribe.

25. Travelling and subsistence and dependants' carers' allowance shall be paid on the last working day of each month for any claim received not less than 21 days before that date.

### **Pensions**

26. Neither members nor co-opted members of the Council are eligible to join the London Borough of Tower Hamlets Local Government Pension Scheme.

### **Records of Allowances and Publications**

27. The Council shall keep a record of payments made by it under this Scheme, including the name of the recipients of the payment and the amount and nature of each payment.
28. The record of the payments made by the Council under this Scheme shall be available at all reasonable times for inspection at no charge. A copy shall also be supplied to any person who requests it on payment of a reasonable fee.
29. As soon as reasonably practicable after the end of the year to which this Scheme relates, the Council shall make arrangements to publish the total sums paid by it to each recipient for each different allowance.
30. A copy of the Scheme shall be supplied to any person who requests it on payment of a reasonable fee.

### **Renunciation**

31. A member may at any time and for any period, by notice in writing given to the Chief Executive, elect to forego any part of their entitlement to an allowance under this Scheme.

### **Interpretation**

32. In this scheme:
- "Councillor" means an elected member of the London Borough of Tower Hamlets who is a councillor;

- “Mayor” means the elected Mayor of Tower Hamlets Council;
- “Member” means any person who is either the Mayor, a Councillor or a co-opted member of Tower Hamlets Council;
- “Co-opted member” means any person who is not a Councillor but who sits on a Committee, Sub-Committee or Panel of the Council;
- “Year” means the 12 months ending on 31 March in any year.

### **Revocation**

- 33.** The London Borough of Tower Hamlets Members’ Allowance Scheme 2020 is hereby revoked and replaced with the Tower Hamlets Members’ Allowances Scheme 2021.

## SCHEDULE 1

### Special Responsibility Allowance

The following are specified as the special responsibilities for which special responsibility allowances are payable and the amounts of those allowances:

	<b>Eff. 1 April 2019</b>
Mayor	£80,176
Deputy Mayors	£32,070
Leader of the Majority Group on the Council	£12,080
Leader of the largest Opposition Group (subject to having at least 10% of the Council)	£12,080
Leader of the largest Opposition Group (if the Group has fewer than 10% of the Council)	£5,345
Leader of any Group (subject to having at least 10% of the Council)	£5,345
Cabinet Members	£21,380
Mayoral Advisors	£7,483
Chair of Overview and Scrutiny Committee	£11,759
Chair of Scrutiny Sub-Committee (Health, Housing or Grants)	£8,552
Lead Member for Scrutiny	£8,552
Chair of Development Committee	£11,759
Chair of Strategic Development Committee	£11,759
Chair of Licensing Committee	£6,414
Chair of General Purposes Committee	£8,552
Chair of Audit Committee	£6,414
Chair of Pensions Committee	£6,414
Speaker of Council	£10,690
Deputy Speaker of Council	£5,345
Chief Whip (Whip of the Majority Group)	£11,759

## SCHEDULE 2

### **Dependants' Carers' and Travelling and Subsistence Allowances**

The duties for which these allowances are payable include:

- the attendance at a meeting of the Council or of any committee or sub-committee of the Council or of any other body to which the Council makes appointments or nominations, or of any committee or sub-committee of such a body;
- the attendance at any other meeting, the holding of which is authorised by the Council, or a committee or sub-committee of the Council, or a joint committee of 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that –
  - where the Council is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
  - if the Council is not so divided, it is a meeting to which at least two members of the Council have been invited
- the attendance at a meeting of any association of authorities of which the Council is a member;
- the attendance at a meeting of the Cabinet or a meeting of any of its committees, where the Council is operating executive arrangements;
- the performance of any duty in pursuance of any standing order under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- the performance of any duty in connection with the discharge of any function of the Council conferred by or under any enactment and empowering or requiring the Council to inspect or authorise the inspection of premises.
- the performance of any duty in connection with arrangements made by the Council for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools); and
- the carrying out of any other duty approved by the Council, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the Council or any of its committees or sub-committees.