



# CONSTITUTION

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## Table of Contents

<b>PART 1 – SUMMARY AND EXPLANATION.....</b>	<b>4</b>
The Council's Constitution .....	5
<b>PART 2 – ARTICLES OF THE CONSTITUTION.....</b>	<b>8</b>
Article 1 – The Constitution.....	9
Article 2 – Members of the Council.....	10
Article 3 – Citizens and The Council.....	13
Article 4 – The Full Council.....	15
Article 5 – Chairing the Council .....	17
Article 6 – Policy and Accountability Committees .....	18
Article 7 – The Executive (Cabinet) .....	21
Article 8 – Regulatory & Quasi-Judicial Committees.....	23
Article 9 – Area Committees .....	24
Article 10 – Joint Arrangements.....	25
Article 11 – Officers and employees of the Council .....	27
Article 12 - Decision Making .....	31
Article 13 - Finance, Contracts and Legal Matters.....	33
Article 14 - Review and Revision of the Constitution .....	34
Article 15 - Suspension, Interpretation and Publication of the Constitution.....	36
<b>PART 3 – RESPONSIBILITY FOR FUNCTIONS .....</b>	<b>37</b>
The Executive – The Leader and Cabinet Members .....	38
Executive Members – Generic Responsibilities and Functions .....	39
Executive Members - Responsibilities and Portfolios .....	42
Lead Members.....	69
Committee Terms of Reference.....	72
Committee Memberships 2023/24.....	118
Scheme of Delegation to Officers .....	122
Emergency Response Structures .....	144
<b>PART 4 – RULES OF PROCEDURE.....</b>	<b>145</b>
Council Procedure Rules .....	146
Petitions Scheme.....	165
Access to Information Procedure Rules.....	173
Budget and Policy Framework Procedure Rules .....	184
Executive Procedure Rules .....	189

Overview and Scrutiny Procedure Rules .....	193
Officer Employment Procedure Rules.....	210
Contract Standing Orders .....	215
Financial Regulations .....	216
<b>PART 5 – CODES AND PROTOCOLS .....</b>	<b>217</b>
Members’ Code of Conduct.....	218
Statutory Officers’ Code of Conduct .....	225
Member / Officer Protocol.....	227
Local Protocol for Leader and Cabinet Members .....	231
Local Protocol for Policy and Accountability Committee Chairs.....	237
Local Protocol for the Opposition Leadership.....	239
Local Protocol for the Mayor and the Civic Role.....	242
Councillors’ Support Guidelines.....	243
Councillors Access to Information – Local Protocol.....	244
Handling Councillor and MP Enquiries – Guidance for Councillors .....	247
Planning and Licensing Guidance for Councillors and Officers .....	249
Public Speaking at Planning and Development Control Committee Protocol .....	259
Guidance on Gifts and Hospitality.....	264
Guidance for Members and Officers on the Requirement to Declare Related Party Transactions .....	266
Guidance for Councillors and Officers Involved in Outside Organisations.....	269
Information Security Policy .....	291
Local Code of Corporate Governance .....	293
<b>PART 6 – MEMBERS’ ALLOWANCES SCHEME .....</b>	<b>301</b>
Members’ Allowances Scheme 2023-24.....	302
<b>PART 7 – MANAGEMENT STRUCTURE .....</b>	<b>306</b>
Management Structure .....	307

## **PART 1 – SUMMARY AND EXPLANATION**

## **The Council's Constitution**

1. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that it is 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 choose.
2. The constitution is divided into Articles, which set out the basic rules governing the Council's business and more detailed procedures and codes of practice are provided in separate rules and protocols later in the document.

### **How the Council operates**

3. The Council is composed of 50 Councillors elected 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.
4. Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer and the Council's Standards Committee oversee the operation of this code, provides advice and training for Councillors, and considers complaints against Councillors and co-opted members.
5. All Councillors meet together as the 'Full Council'. Meetings of the Council are open to the public. Here, Councillors decide the Council's overall policies and set the budget each year. The Council is responsible for electing the Leader (who appoints the other members of the Executive, known as 'Cabinet'), and the memberships of Regulatory Committees and Overview and Scrutiny Committees, known as 'Policy and Accountability Committees'. This is carried out at the Annual Council meeting each year. At Ordinary Council meetings, Councillors may also submit special motions for debate. A formal vote is taken on these matters and any other issues raised.

### **How decisions are made**

6. The Executive (Cabinet) is the part of the Council which is responsible for most significant day-to-day decisions. The Executive is made up of a Leader (who is elected by the Council), a Deputy Leader and a Cabinet of 8 other Councillors (Cabinet Members) appointed by the Leader.
7. When major decisions are to be discussed or made, these are published a month in advance in the key decisions list in so far as they can be anticipated. If these major decisions are to be discussed and decided on with Council officers at a meeting of the Executive, this will generally be open for the public to attend and/or to submit a deputation or petition, except where personal or confidential or exempt matters are being discussed. Members of the Executive may also consider petitions on other matters.

8. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **Overview and scrutiny**

9. Overview and Scrutiny Committees (known as Policy and Accountability Committees and overseen by the Policy and Oversight Board in Hammersmith & Fulham) develop key policies for the Council on behalf of and with residents and community groups, and hold the Executive to account. They shadow the work of the Executive, and allow citizens to have a greater say in Council matters by way of:
  - a deputation request;
  - a petition;
  - by being directly co-opted to sit on a policy and accountability committee, sub-committee or task group;
  - by participating in select-committee style public inquiries;
  - or by commenting on and participating in the determination of council policy.
10. The input from members of the public and community groups helps advise and inform the decisions of the Executive and the Council as a whole on its policies, budget and service delivery.
11. Councillors (and voting education co-optees on education matters) can 'call-in' a decision which has been made by the Executive but not yet implemented (see overview and scrutiny procedure rules). This enables backbench councillors to consider whether the decision is appropriate. They may recommend that the Executive reconsiders the decision, or that the Council determines the matter if it appears to be a breach of the agreed budget and policy framework. Policy and Accountability Committees may also be consulted by the Executive on forthcoming decisions and the development of future policy.

### **The Council's staff**

12. The Council has people working for it (called 'officers') to give advice, implement decisions, and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between officers and members of the Council

### **Citizens' rights**

13. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in [Article 3](#). Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

14. Where members of the public use specific Council services, for example as parents of a school pupil or as Council tenants, they have additional rights. These are not covered in this constitution, but in separate documents available from the relevant Council department.
15. The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Council's information service or alternatively, visit the Council's website at [www.lbhf.gov.uk](http://www.lbhf.gov.uk)

## **PART 2 – ARTICLES OF THE CONSTITUTION**

## **Article 1 – The Constitution**

### **1. Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this constitution.

#### **1.1 The constitution**

This constitution, and all its appendices, is the constitution of the London Borough of Hammersmith and Fulham.

#### **1.2 Purpose of the constitution**

The purpose of the constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with local people, businesses, the public and voluntary sectors;
2. support the active involvement of citizens in the process of local authority decision-making and to ensure that the Council is accessible and approachable;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
8. provide a means of improving the delivery of services to the community;
9. promote and maintain high standards of conduct of members and officers.

#### **1.3 Interpretation and review of the constitution**

Where the constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the constitution as set out in Article 15.

## **Article 2 – Members of the Council**

### **2.1 Composition of the Council**

The Council is made up of 50 Members, called Councillors. Two or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

### **2.2 Eligibility**

Only registered voters of the borough or those living or working there will be eligible to hold the office of Councillor.

### **2.3 Election and terms of Councillors**

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

### **2.4 Roles and functions of all Councillors**

All Councillors will work constructively for real improvements in the economic, social and environmental conditions of the communities and people they represent. To this end, Councillors are expected to commit themselves to the following minimum duties and responsibilities:

#### **Corporate responsibility**

- (a) To attend Council meetings as the Council's ultimate policy makers.
- (b) In order to oversee and participate in the running of the Authority as a corporate body, to accept appointment to a minimum of one of the Council's Committees, Policy and Accountability Committees or Regulatory Committees, where eligible.
- (c) To attend briefing sessions and accept their personal responsibility to update their knowledge of departments and policy.
- (d) To agree to sit as a member of the Council's Committee or Sub-Committee to appoint or dismiss Chief Officers, and Licensing Sub-Committee at least twice a year or as otherwise requested to do so.
- (e) To accept a personal responsibility to take up such opportunities for training and development that may be provided by the Council in order better to carry out their duties as effective members.
- (f) All Councillors must co-operate with the Authority's Chief Executive in producing a report for the Annual Meeting of the Council (if required) recording their attendances at meetings of the Council, its Committees or Panels, or any outside organisations to which they have been appointed as the Council's representatives, or any social services rota visits made to the Council's Children's Homes and/or Homes for the Elderly.

- (g) The Leader, Deputy Leader, Cabinet Members, Chief Whip and Deputy Whip may produce a short, written report to each Annual Meeting of the Council on the performance of their duties in the past year.
- (h) The Leader, Deputy Leader and Whip of the Opposition Group may also provide a short, written report to each Annual meeting of the Council on the performance of their duties in the previous year.
- (i) The Chairs of the Policy and Oversight Board and Policy and Accountability Committees may also provide a short, written report to each Annual Meeting of the Council on the performance of their Committees in the past year.

### **Constituency responsibility**

- (a) To provide a regular, advertised advice service to the local community at a time, day and place that is convenient and accessible to all the community (including virtual or telephone appointments), and to deal with any problems raised by them expeditiously or, as a minimum, to advertise other appropriate arrangements to fulfil this important role.
- (b) To undertake monitoring of local services provided by the Council or any other body with the objective of obtaining the best and most effective services possible for local people.
- (c) To liaise with community groups, including tenants' and residents' associations, churches and other appropriate local organisations in the ward, representing their needs and dealing with any problems raised by them.

## **2.5 Chief Whip**

The roles and responsibilities of Executive and Policy and Accountability Committee Councillors are dealt with in the respective parts of the constitution. The Chief Whip occupies a central position in the smooth running of the Council, with the following specific responsibilities:

- (a) Liaison with the Leader of the Opposition on the following:
  - organising meetings
  - briefing on procedural matters
  - Full Council meetings
  - filling of vacancies
- (b) Liaison with the Chief Executive and the Strategic Leadership Team on the following:
  - decisions of the Administration Group
  - programming of meetings
  - the decision-making process
- (c) Chief Whip of the majority political group on the Council.
- (d) In consultation with the Leader, nominating Councillors to all internal bodies, including Policy and Accountability Committees, quasi-judicial bodies, Task Groups etc. in consultation with the relevant Cabinet member and Leader of the Opposition as appropriate.

- (e) Liaison with Executive members and the Leader of the Opposition in respect of filling vacancies on outside bodies as appropriate.
- (f) Keeping under review the level of support services to Councillors in undertaking their representative role, and liaising with the Director of Corporate Services over variations in service.
- (g) The Deputy Chief Whip deputises for the Chief Whip in their absence.

## **2.6 Councillors' Rights and duties**

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.

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.

For these purposes, "confidential" and "exempt" information are defined in Part 4 of this constitution.

## **2.7 Conduct**

Councillors will at all times observe the members' code of conduct and the member/officer protocol set out in Part 5 of this constitution. The Council expects its elected members to uphold the highest standards of probity and integrity. The onus of responsibility for upholding these standards rests with individual Councillors themselves.

## **2.8 Allowances**

Councillors will be entitled to receive allowances in accordance with the members' allowances scheme set out in Part 6 of this constitution.

## Article 3 – Citizens and The Council

### 3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the access to information procedure rules in Part 4 of this constitution.

### 3.2 Voting and Mayoral petitions

Citizens on the electoral roll for the area have the right to vote and to sign a petition to request a referendum for an elected Mayor form of constitution.

### 3.3 Information

Citizens have the right to:

- (a) attend meetings of the Council and its Committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (b) attend meetings of the Executive (Cabinet) when Key Decisions are being considered, except when Members are being briefed by officers on particular issues;
- (c) find out from the Key Decisions list what Key Decisions will be taken by the Executive and when;
- (d) make representations to the Executive that Key Decisions which it intends to take in private should instead be taken in public, and to receive a response;
- (e) have access to a wide range of information, including reports, background papers and records of Council, Executive and Committee decisions under the Freedom of Information Act 2000 and the Local Government Act 1972, subject to certain exemptions and restrictions; and
- (f) inspect the Council's accounts and make their views known to the external auditor.

### 3.4 Participation

Citizens have the right to:

- (a) submit petitions to the Full Council, Cabinet, Cabinet Members, or Policy and Accountability Committees, in accordance with the petitions scheme set out in Part 4 of this constitution;
- (b) submit deputation requests to any Committee of the Council except Planning and Development Control Committee and Licensing Sub-Committee (applicants, objectors and supporters of an application have the right to speak at Planning and Development Control Committee in accordance with the Council Procedure Rules in Part 4 of this constitution;
- (c) contribute to and participate in investigations by the Council's Policy and Accountability Committees or task groups or sub-committees, either as a co-optee or as an "expert witness";

- (d) speak at a meeting of a Policy and Accountability Committee, at the discretion of the Chair;

### **3.5 Complaints**

Citizens have the right to complain to:

- (a) the Council itself under its complaints scheme;
- (b) the Ombudsman after using the Council's own complaints scheme;
- (c) the Council's Monitoring Officer about a breach of the Councillor's code of conduct. Complaints should be sent to the Monitoring Officer at the Town Hall.
- (d) the Information Commissioner in relation to the Freedom of Information Act 2000 and the Data Protection Act 2018.

### **3.6 Citizens' responsibilities**

The Council will not tolerate acts of violence, aggression or threatening behaviour towards members and it will take necessary measures to protect them. Citizens are expected to treat officers, Councillors and their fellow citizens with due respect and to observe the principles of equal opportunities in their dealings with them.

At meetings of the Council or any of its Committees or Panels, citizens must maintain orderly conduct and not disrupt the proceedings. They shall respect the Mayor's or Chair's decisions and obey their instructions so that the meeting can be conducted effectively and appropriately.

## Article 4 – The Full Council

The Full Council is responsible for setting the budget and policy framework within which the Council must operate under an Executive form of governance (Leader and Cabinet).

### Definitions

#### 4.1 Policy Framework

The policy framework means the following plans and strategies which are currently required by law to be considered and approved by the Full Council:

- Plans or strategies for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision
- Treasury management policy
- Development plan documents
- Licensing authority policy statement

The Secretary of State has the power to relax the requirements in relation to plans and strategies. Accordingly, the plans and strategies set out above shall only form part of the budget and policy framework and be approved by the Full Council to the extent required by law.

#### 4.2 Budget

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

#### 4.3 Housing Land Transfer

Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993.

#### 4.4 Functions of the Full Council

Only the Full Council will exercise the following functions:

- (a) adopting and changing the constitution, including approving schemes of delegation of the non-executive functions of the Council;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any housing land transfer;
- (c) subject to the urgency procedure contained in the access to information procedure rules in Part 4 of this constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in

- accordance with the budget;
- (d) electing the Leader and removing them from office, and receiving notification of the appointment of the Deputy Leader and other Executive Members;
  - (e) agreeing and/or amending the terms of reference for committees or panels, deciding on their composition and making appointments to them for each municipal year until the next following annual meeting of the Council or until such time as the Council determines otherwise<sup>1</sup>;
  - (f) appointing representatives to outside bodies, unless the appointment is an executive function or has been delegated by the Council;
  - (g) adopting an allowances scheme under article 2.8;
  - (h) changing the name of the area, or conferring the freedom of the Borough;
  - (i) confirming the appointment of the Head of Paid Service;
  - (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills;
  - (k) all local choice functions set out in Part 3 of this constitution which the Council decides should be undertaken by itself rather than the Executive; and
  - (l) all other matters which, by law, must be reserved to Council.

#### **4.5 Council Meetings**

There are three types of Council meeting:

- the annual meeting;
- Ordinary meetings (including the budget council meeting);
- Extraordinary meetings.

and they will be conducted in accordance with the Council procedure rules in part 4 of this constitution.

#### **4.6 Responsibility for Functions**

The Council will maintain the lists in part 3 of this constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

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<sup>1</sup> The Chief Executive is authorised to make in-year appointments to committees upon receipt of nominations by the Party Whips (Full Council, 17 July 2019).

## **Article 5 – Chairing the Council**

The person presiding at meetings of the Council will be known as the Mayor of the London Borough of Hammersmith and Fulham and will be elected each year at the Annual Meeting of the Council from those members comprising the Council (Councillors). The Mayor may appoint a Deputy Mayor.

### **5.1 Role and function of the Mayor**

The Mayor (and in their absence, the Deputy Mayor) will have the following roles and functions:

#### **Ceremonial role**

To represent the Council at official civic and other formal functions, and act as the focus for community representation, attending such civic and ceremonial functions as the Council and they determine appropriate.

#### **Chairing the Council meeting**

The Mayor will have the following responsibilities:

- To uphold and promote the purposes of the Constitution, and to interpret the constitution when necessary.
- To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which backbench members who are not on the Executive or hold office as a Committee Chair can hold the Executive and Committee Chairs to account.
- To promote public involvement in the Council's activities.

## **Article 6 – Policy and Accountability Committees**

### **6.1 Introduction**

Overview and scrutiny is an important element of the Council's constitution. Overview and Scrutiny Committees, known in Hammersmith and Fulham as Policy and Accountability Committees, are overseen by the Policy and Oversight Board and together they will develop key policies for the Council on behalf of and with residents and community groups and hold the Executive to account.

This article outlines the basic elements and functions of the Policy and Oversight Board and Policy and Accountability Committees in Hammersmith and Fulham. It should be read in conjunction with the Policy and Accountability procedure rules set out in part 4 of this constitution.

### **6.2 Terms of reference**

The Council will appoint a Policy and Oversight Board and Policy and Accountability Committees (PACs), as set out in Part 3 – Committee Terms of Reference, to discharge the functions conferred by section 21 of the Local Government Act 2000, and regulations under section 32 of the Local Government Act 2000 or Local Government and Public Involvement in Health Act 2007.

### **6.3 Responsibilities**

The Policy and Oversight Board and PACs will have the following key responsibilities:

- To develop policy recommendations and influencing how the Council works
- To hold the Cabinet to account;
- review the impact of decisions and policies implemented by the council and other local service providers
- To be a critical friend to the Cabinet and to challenge the assumptions behind the policies and actions of the Council and other local service providers;
- To amplify the voice and concerns of residents and to give residents a mechanism to comment on, participate in, and determine Council policy;
- To improve the Council's services by listening to residents and user groups;
- To scrutinise decisions made by partner organisations in the interest of the residents of the borough;
- To be independent of party politics and ensure an informed evidence-based approach to policy development.

PACs will be responsible for understanding and assessing the impact of council policies, particularly the impact on vulnerable and protected groups.

When considering major cross-cutting issues that impact upon the work of more than one PAC, PACs may meet concurrently to receive evidence in a

joint session. Following such meetings, reports may be published as joint reports or as separate responses. Alternatively, for major cross-cutting issues that impact the work of more than one PAC or which require detailed attention, PACs may appoint sub-committees or task groups to examine the particular issue.

#### **6.4 General role**

The Policy and Accountability Committees will be appointed in accordance with the political proportion of the Council as a whole. Within their terms of reference, these Committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Executive and/or the Full Council in connection with the discharge of any functions or to a member or officer exercising the relevant delegated powers;
- (c) consider any matter affecting the area or its inhabitants arising from the key decisions list or otherwise;
- (d) call-in, for reconsideration, decisions made but not yet implemented by the Executive and, if necessary, refer them back to the Executive or Full Council;
- (e) monitor and review the outcomes of recommendations arising from scrutiny activity; and
- (f) consider any petitions or deputations on a relevant matter, and any request for a review of the steps taken and decisions made by the Council in response to a petition, in accordance with the Policy and Accountability procedure rules in part 4 of this constitution.

Policy and Accountability Committees may:

- (a) review and scrutinise the decisions made by and performance of the Leader, other members of the Executive and Council officers, both in relation to individual decisions and over time;
- (b) review and scrutinise relevant aspects of the policy, services and performance of the Council, its partners, other public bodies in the area or matters which affect the authority's area or its inhabitants and, where appropriate, prepare and publish reports and recommendations;
- (c) question the Leader, other members of the Executive and chief officers about matters within their portfolio, 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;
- (d) make recommendations to the Executive and/or the Council arising from the outcome of the scrutiny process;
- (e) appoint a joint Policy and Accountability Committee with one or more other local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee;

- (f) require the provision of information from, and attendance before the Committee by, any such person or organisation under a statutory duty to comply with the scrutiny function and request information from, and attendance before the Committee by, any other person or organisation;
- (g) make reports or recommendations to any outside body on matters within the remit of that outside body or which relate to the business or activities of that outside body and which affect the Council's area or its inhabitants; and

### **6.5 Scrutiny of health**

With regard to the scrutiny of health (including public health), the Health and Adult Social Care Policy and Accountability Committee has the powers to:

- (a) review and scrutinise any matter relating to the planning, provision and operation of health services in the area;
- (b) make reports and/or recommendations to the local NHS bodies, the Secretary of State and the Council on any matter reviewed or scrutinised pursuant to regulations under Sections 7 and 8 of the Health and Social Care Act 2001;
- (c) make comments on any proposals consulted on by a local NHS body concerning a substantial development of the health service in the area or for a substantial variation in the provision of such service;
- (d) arrange for relevant functions in respect of health scrutiny to be exercised by an Overview and Scrutiny Committee of another local authority where the Council considers that another local authority would be better placed to undertake those relevant functions, and that local authority agrees to exercise those functions; and
- (e) appoint a joint Policy and Accountability Committee with one or more other local authorities and arrange for the relevant functions of those authorities to be exercised by the joint committee.

The PAC may exercise these powers in the approval of commissioned Task Group reports and recommendations.

The same powers apply to the Children and Education Policy and Accountability Committee in respect of the scrutiny of health matters which relate specifically to children and young people.

### **6.7 Proceedings of Policy and Accountability Committees**

Policy and Accountability Committees will conduct their proceedings in accordance with the Policy and Accountability procedure rules set out in part 4 of this constitution.

## **Article 7 – The Executive (Cabinet)**

### **The role of the Executive**

#### **7.1 Role**

The Executive (commonly referred to as “the Cabinet” in Hammersmith and Fulham) will carry out all of the local authority’s functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution.

#### **7.2 Form and Composition**

The Executive (Cabinet) will consist of an Executive Leader (elected by the Council) and other Councillors appointed to the Executive by the Leader, who shall be known as Cabinet Members.

#### **7.3 Leader**

The Executive Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office for a four year term, beginning at the annual Council meeting immediately following the municipal elections and ending on the day of the annual Council meeting immediately following the next succeeding municipal elections, or until:

- (a) they resign from the office; or
- (b) they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer a Councillor; or
- (d) they are removed from office as Leader by resolution of the Council.

#### **7.4 Other Executive Members**

Other Executive members (Cabinet Members) up to 9 in number shall be appointed by the Leader for a period which they shall determine, or until an Executive member:

- (a) resigns from office; or
- (b) is suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may be reappointed to office at the end of the period of suspension); or
- (c) is no longer a Councillor; or
- (d) is removed from office by the Leader.

One other Executive member shall be appointed by the Leader as their Deputy for a period of four years or until such time as they remove the Deputy from office.

### **7.5 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the executive procedure rules set out in part 4 of this Constitution.

### **7.6 Responsibility for functions**

#### **Leader**

The Council will elect the Leader, who will appoint all other Executive members and Lead Members. The Leader will be responsible for ensuring that the list maintained in part 3 of this constitution, setting out which Cabinet members, committees, officers or joint arrangements are responsible for the exercise of particular executive functions, is up to date and reported to the Council as necessary and at each annual meeting.

The Leader has responsibility for the matters set out in their responsibilities and portfolio maintained in part 3 of this constitution. The Leader exercises responsibilities individually or in conjunction with designated Cabinet members as shown in part 3.

In the absence of the Leader, or if they are unable to act, their responsibilities shall be discharged by the Deputy Leader.

#### **Cabinet Members**

Cabinet members have responsibility for developing policies, setting objectives, taking decisions (either individually or collectively via Cabinet), responding to petitions made to them under the Council's petitions scheme, and monitoring Council and departmental activities, for the areas set out in their responsibilities and portfolios maintained in part 3 of this constitution. Cabinet members may appoint advisory or consultative bodies to assist them in the carrying out of their executive functions.

## Article 8 – Regulatory & Quasi-Judicial Committees

### 8.1 Regulatory and quasi-judicial committees

The Council will appoint the regulatory committees and other bodies set out below and in Part 3 (responsibility for council functions) of this constitution to discharge the functions described therein.

- Appointments Panel (appointment and dismissal of Head of Paid Service and Chief Officers)
- Audit Committee
- Health and Wellbeing Board
- Licensing Committee
- Licensing Sub-Committee
- Pension Fund Committee
- Pensions Board
- Planning and Development Control Committee
- Standards Committee
- Wormwood Scrubs Charitable Trust Committee

## **Article 9 – Area Committees**

### **9.1 Area committees**

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

*NOTE: The Council does not currently have any area committees.*

## Article 10 – Joint Arrangements

### 10.1 Arrangements to promote well-being

The Council or the Executive, in order to promote the economic, social or environmental well-being of its area, 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.

### 10.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The Executive may only appoint Executive members to a joint committee. Those members need not reflect the political composition of the local authority as a whole.
- (d) Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### 10.3 Access to information

- (a) The Access to Information Procedure Rules in Part 4 of this constitution shall apply to joint committees.
- (b) If all the members of a joint committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Executive.
- (c) If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in part VA of the Local Government Act 1972 will apply.

#### **10.4 Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **10.5 Contracting out**

The 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, provided there is no delegation of the Council's discretionary decision making.

## **Article 11 – Officers and employees of the Council**

### **11.1 Management structure**

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

### **11.2 Head of Paid Service, Monitoring Officer, and Chief Finance Officer**

The Council will engage persons for the following posts, who will be designated statutory chief officers. (For other chief officer posts, see [part 7](#) of the constitution).

### **11.3 Chief Executive (CE) (Head of Paid Service) - Functions and areas of responsibility**

- Overall Corporate management and operational responsibility, including overall management responsibility for all officers.
- Provision of professional advice to all parties in the decision-making process.
- Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.
- Representing the Council on partnership and external bodies (as required by statute or the Council).
- Management of CE's office.

### **11.4 Director of Corporate Services (Monitoring Officer) - Functions and areas of responsibility**

- Shall act as the authority's Monitoring Officer under the Local Government and Housing Act 1989.
- Responsibility for maintaining the Council's Constitution.
- The assessment of complaints about failure to comply with the Members' Code of Conduct and liaison with the Independent Persons.
- The lawfulness of decision-making.
- Receiving and registering Members' interests.
- To determine whether decisions of the Executive are within the agreed budget and policy framework.

### **11.5 Strategic Director of Finance (Chief Finance Officer) - Functions and areas of responsibility**

- Chief Finance Officer for the authority (s.151 Officer), responsible for the provision of corporate financial advice, financial administration, stewardship, audit and financial probity.
- Management of Financial Corporate Services, including Finance, Internal Audit and Corporate Anti-Fraud.

### **11.6 Structure**

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at [part 7](#) of this constitution.

### 11.7 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council** - The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **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.

### 11.8 Functions of the Monitoring Officer:

- (a) **Maintaining the Constitution** - The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making** - After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council [or to the Executive in relation to an executive function] if they consider that any proposal, decision or omission would give rise to unlawfulness, or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Overseeing the Council's arrangements for investigating allegations of a breach of the Members' Code of Conduct** - The Monitoring Officer will ensure the promotion and maintenance of high standards of conduct through the Council's arrangements for investigating alleged breaches of the Members' Code of Conduct.
- (d) **Conducting investigations** - The Monitoring Officer will conduct, in consultation with the Independent Persons, the investigation of complaints involving a failure to comply with the Council's Members' Code of Conduct and submit investigation reports in respect of them to the Standards Committee.
- (e) **Proper officer for access to information** - The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.
- (f) **Providing advice** - The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Councillors.
- (g) **Restrictions on posts** - The Monitoring Officer cannot be the Chief Finance Officer.

- (h) **Appointment of Deputies** - The Monitoring Officer may, if unable to act, nominate a Deputy to act on their behalf.
- (i) Overseeing compliance with the Defend Council Homes policy.

### 11.9 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council [or to the Executive in relation to an executive function] and to the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs** - The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management** - The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice** - The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Councillors and to the elected Mayor, and will support and advise Councillors and Officers in their respective roles.
- (e) **Give financial information** - The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer** - The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

### 11.10 Scrutiny Officer

The Council will appoint a Scrutiny Officer:

- (a) to promote the role of the Council's Policy and Accountability Committees;
- (b) to provide support to the Council's Policy and Accountability Committees and the members of those committees;

- (c) to provide support and guidance to Councillors, Members of the Executive, and Officers, in relation to the functions of the Council's Policy and Accountability Committees.

The Scrutiny Officer cannot be the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer.

**11.12 Conduct**

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

**11.13 Employment**

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

## Article 12 - Decision Making

### 12.1 Responsibility for decision making

The Council will record and keep up to date details of who has responsibility for which decisions and make this available. This record is set out in Part 3 of this Constitution.

### 12.2 Principles of decision-making

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

- (a) taking into account all relevant considerations and ignoring all irrelevant considerations (i.e. the ‘Wednesbury’ principle);
- (b) due and appropriate consultation, and the taking of professional advice from officers;
- (c) compliance with the European Convention on Human Rights (ECHR);
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) transparency in explaining what options were considered and giving the reasons for decisions (i.e. the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012).

### 12.3 Types of decision

- (a) **Decisions reserved to Full Council.** Decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.
- (b) **Key Decisions**

A “Key Decision” is an executive decision which is likely to:

- (i) result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council’s budget for the service or function to which the decision relates
- (ii) be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority. (However, where practicable, the Council will also treat as “key” any decisions which have a significant effect on one ward).

In assessing whether a decision is a Key Decision, Members must consider all the circumstances of a case. However, a decision under paragraph (b)(i) will not generally be regarded as a key decision where its value is below **£300,000** or, in the case of a business case for

generating income to the Council through sale of services to non-residents where the value is less than £1,000,000.

A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules as set out in Part 4 of this Constitution.

#### **12.4 Decision making by the Full Council**

Subject to Article 12.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.5 Decision making by the Executive**

Subject to Article 12.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.6 Decision making by Policy and Accountability Committees**

Policy and Accountability Committees will follow the Policy and Accountability Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.7 Decision making by other Committees and Sub-Committees established by the Council**

Subject to Article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **12.8 Decision making by Council bodies acting as tribunals**

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

## **Article 13 - Finance, Contracts and Legal Matters**

### **13.1 Financial Management**

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

### **13.2 Contracts**

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4 of this Constitution.

### **13.3 Legal Proceedings**

The Assistant Director, Legal Services is authorised to institute, defend 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 the Assistant Director, Legal Services considers that such action is necessary to protect the Council's interests. For the purposes of this Article, legal proceedings includes any civil, criminal or tribunal proceedings and public inquiries, arbitrations and adjudications in which the Council is interested and has a right or obligation to participate. Counsel may be instructed by the Assistant Director, Legal Services in consultation with the Monitoring Officer.

### **13.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed or the signature will be attached electronically by the Assistant Director, Legal Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

All contracts shall follow the requirements set out in the Council's Contract Standing Orders (in Part 4 of the Constitution).

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

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director, Legal Services. 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 or attached electronically which, in the opinion of the Assistant Director, Legal Services, should be sealed. The affixing of the Common Seal will be attested by the Assistant Director, Legal Services or some other person authorised by them.

## Article 14 - Review and Revision of the Constitution

### 14.1 Duty to monitor and review the Constitution

The Council's Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

#### **Protocol for monitoring and review of the Constitution by the Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with them by members, officers, the public and other relevant stakeholders;
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice;
5. consult all Councillors on their views;
6. bring suggestions and recommendations to the Cabinet or relevant Scrutiny Committee for discussion and debate.

### 14.2 Changes to the Constitution

- (a) **Approval:** Changes to the Constitution will only be approved by the Full Council after consideration of the proposal at its Annual or another Council meeting.

However, the Monitoring Officer in consultation with the Leader, Chief Whip and Opposition Whip may make the following changes from time to time:

- (i) to Part 3 (Responsibility for Functions) as may be necessary to reflect any decision made by a person or body with the authority to delegate or sub-delegate powers to exercise executive or non-executive functions;
- (ii) to Article 11.1 and Part 7 (Management Structure) as may be necessary to reflect any changes made in the allocation of functions to officers;
- (iii) such changes as may be necessary to comply with or give effect to any legislative requirements;

- (iv) such other changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable.

Any changes made by the Monitoring Officer shall be reported to the next available Council meeting for information.

- (b) **Implementation:** Changes approved by the Council will take effect from the conclusion of the meeting at which those changes are agreed unless the recommendation specifies otherwise.
- (c) **Change from a Leader and Cabinet form of Executive to another permitted form of Executive:** The Council must seek approval to such changes by means of a local referendum.

## **Article 15 - Suspension, Interpretation and Publication of the Constitution**

### **15.1 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present at the meeting.
- (c) **Rules capable of suspension.** The following rules may be suspended in accordance with 15.01(a):
  - Council Procedure Rules
  - Contract Standing Orders

### **15.2 Interpretation**

The ruling of the Mayor 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 interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.3 Publication**

- (a) The Monitoring Officer will ensure that a copy of this Constitution is made available to each member of the authority on the member first being elected to the Council.
- (b) The Monitoring Officer will ensure that copies of the Constitution are available for inspection at Council offices, libraries and other appropriate locations, and available to members of the local press and the public.
- (c) The Monitoring Officer will ensure that the Constitution is updated as necessary.

**PART 3 – RESPONSIBILITY FOR FUNCTIONS**

## The Executive – The Leader and Cabinet Members

<b>Leader</b>	Councillor Stephen Cowan
<b>Deputy Leader (responsible for Adult Social Care and Health)</b>	Councillor Ben Coleman
<b>Cabinet Member for Children and Education</b>	Councillor Alexandra Sanderson
<b>Cabinet Member for Civic Renewal</b>	Councillor Bora Kwon
<b>Cabinet Member for Climate Change and Ecology</b>	Councillor Wesley Harcourt
<b>Cabinet Member for Economy</b>	Councillor Andrew Jones
<b>Cabinet Member for Finance and Reform</b>	Councillor Rowan Ree
<b>Cabinet Member for Housing and Homelessness</b>	Councillor Frances Umeh
<b>Cabinet Member for Public Realm</b>	Councillor Sharon Holder
<b>Cabinet Member for Social Inclusion and Community Safety</b>	Councillor Rebecca Harvey

### Lead Members

<b>President – H&amp;F Enterprise Board</b>	Councillor Zarar Qayyum
<b>Lead Member for European Co-operation and Digital Innovation</b>	Councillor Florian Chevoppe-Verdier
<b>Lead Member for Culture and Heritage</b>	Councillor Mercy Umeh
<b>Lead Member for Community Mental Health</b>	Councillor Lucy Richardson
<b>Lead Member for Support for Older People</b>	Councillor Asif Siddique
<b>Lead Member for Inclusive Community Engagement and Co-production</b>	Councillor Sharon Holder
<b>Lead Member for Youth Advancement</b>	Councillor Trey Campbell-Simon
<b>Lead Member for Women and Girls</b>	Councillor Emma Apthorp
<b>Lead Member for Flood Mitigation</b>	Councillor Helen Rowbottom
<b>Lead Member for Energy Crisis Support</b>	Councillor Liz Collins
<b>Lead Member for Wellbeing and Early Access to Support</b>	Councillor Laura Janes

**Other appointments**

**Borough Representative for the Armed  
Forces Community**

Councillor Patrick Walsh

## **Executive Members – Generic Responsibilities and Functions**

The Full Council elects the Leader of the Council. Other Executive Members at Hammersmith & Fulham are appointed by the Leader to provide clear and visible leadership and political accountability for the services and activities covered by their portfolios.

These roles include:

- Leading the community planning process and the search for best value, with input and advice from Overview and Scrutiny Committees which are called the Policy Unit and Oversight Board, and Policy and Accountability Committees (PACs) and other interested parties;
- Leading the preparation of the Council's policies and budget;
- Taking in-year decisions on resources and priorities to deliver and implement the budget and policies decided by Full Council;
- Working closely with residents, amenity societies and resident and tenant associations, along with other strategic partners to deliver the highest quality services at the lowest cost to the Council Tax and Business Rate payer.

Executive Councillors work to the same national code of conduct as all members of the Council. The manner in which they carry out these roles, in relation to the Council's directors and senior management, is governed by a code set out in Part 5 of this Constitution.

### **Functions**

The generic functions which are common to the Leader, Deputy Leader and all Cabinet Members, who collectively make up the Executive, are defined as follows.

1. To be responsible for ensuring that the objectives set by the Council and by the Executive in respect of their portfolio are met, and that adequate systems are in place to monitor performance against those objectives.
2. To make recommendations to the Cabinet on Key Decisions relating to their portfolio ('Key Decisions' being defined by Article 12 of this Constitution).
3. To make recommendations to the Cabinet on proposals in relation to the Council's Budget and Policy Framework, on matters relating to their portfolio. (Such proposals may be initial or final, before or after consideration by relevant Policy and Accountability Committees in accordance with the Budget and Policy Framework rules set out in this Constitution).
4. To arrange for appropriate consultation on proposed Key Decisions as published in the Council's Key Decisions list, with relevant Policy and Accountability Committees, and with partner bodies and parties outside the Council.
5. To take decisions on matters within their portfolio other than those defined as 'Key Decisions', ensuring that these are properly considered, reported, and

recorded in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

6. To receive budgetary control reports for services and activities within their portfolio, and to take action necessary to control the budget of those services within the Council's approved Budget and Policy Framework.
7. Where an Executive Councillor is absent or has a prejudicial interest in a matter or is otherwise unable to action decisions in respect of matters within their portfolio, such decisions may be taken by the Leader (or the Deputy Leader in the case of the Leader being absent) or by the Cabinet.

An Executive Councillor may establish an Advisory Group to advise them on policy issues.

Executive Councillors do **not** have powers to take decisions on:

- Functions defined by the Local Government Act 2000 as the responsibility of the Full Council (see Article 4);
- Functions delegated to regulatory or quasi-judicial bodies (see Part 3 – Responsibility for Functions) or any other functions defined by regulations as non-executive functions;
- Functions delegated by the Council exclusively to Officers (see Part 3 – General Scheme of Delegation).

## **Executive Members - Responsibilities and Portfolios**

### ***Leader of the Council***

#### **1. Introduction**

- 1.1 The Leader of Hammersmith & Fulham Council is elected by the Full Council to provide clear and visible leadership and political accountability for the services and activities covered by their portfolio. The Leader is responsible for all executive functions of the Council and shall determine by means of schemes of delegation or otherwise how these functions are to be discharged.
- 1.2 The Leader has authority to discharge any executive function, or to decide to delegate any executive function to the Executive, or to any other Executive member in accordance with the Responsibilities and Portfolios of the Executive maintained in Part 3 of the Constitution, or to Officers, or to any other authority or any joint arrangements.

#### **2. Scope of Portfolio**

The portfolio covers the following areas:

- 2.1 Appointing to and removing from office up to nine Cabinet Members, one of whom shall be appointed Deputy Leader, and Lead Members/ Cabinet Assistants.
- 2.2 Ensuring collective deliberation with Cabinet Members.
- 2.3 Representing and acting as ambassador for the Council and providing community leadership.
- 2.4 Fostering and supporting community resilience, including the networks of residents, organisations and businesses that support this.
- 2.5 Providing leadership and responsibility for ensuring the Council's vision and its values are uppermost for the Council.
- 2.6 Overall responsibility for leading the Council's response and recovery to Covid-19.
- 2.7 Strategic policy initiatives.
- 2.8 The provision of services in respect of electoral and other registration services.
- 2.9 Reports from an independent person designated to investigate allegations of misconduct against the Council's Head of Paid Service.

- 2.10 Appointing or nominating and where appropriate removing the Council's representatives on appropriate outside bodies, charitable organisations and Council-owned companies and subsidiaries.
- 2.11 The development, monitoring and implementation of the Council's Communications Strategy and the provision of information regarding the Council's services.
- 2.12 Responsibility for ensuring that that the Council is responsive to the needs of local neighbourhoods and serves them well.
- 2.13 Subject to the Council's Contract Standing Orders, the Leader may (under the "strong Leader model") take any decision likely to incur savings or expenditure of more than £300,000 if the Leader considers in all the circumstances that it is impracticable to defer the decision until the next scheduled meeting of the Executive (Cabinet). Any such decision shall be taken in compliance with the Access to Information Procedure Rules.
- 2.14 Ensuring the delivery of greater value services that seek to improve outcomes and customer services.
- 2.15 Promotion of democracy and public engagement.

### **3. Delegated Powers**

#### **Urgent Decisions**

- 3.1 By virtue of section 15(9) of the Local Government Act 2000, the Leader may exercise any Executive Function which has been delegated to the Cabinet or to an individual Cabinet Member or to an Officer.
- 3.2 By convention, the Leader will only exercise such powers where:
  - (a) Deferring the decision until the next meeting of Cabinet would carry such unreasonable risk of damage to the Council or its area that it would be unreasonable to defer the decision until the next meeting of Cabinet.
  - (b) An Officer possessing a delegated power has referred the matter to the Leader for determination.
  - (c) In any case, the Leader has consulted the Deputy Leader and the relevant Cabinet Member(s).

## ***Deputy Leader***

### **1. Scope of Portfolio**

- 1.1 In the absence of the Leader, those areas assigned to the Leader, except with regard to those areas/powers specifically reserved for decision to the Council itself.
- 1.2 Representing the Council's views on matters of corporate or strategic policy and any other matters which are within these terms of reference.
- 1.3 Ensuring the Council's compliance with all relevant UK legislation.
- 1.4 Ensuring the effectiveness of the Council's procedures to secure public access to information and open government, including procedures relating to petitions, deputations and other representations.
- 1.5 Responsible for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.6 Strategic responsibility for Co-production.

### **2. Adult Social Care and Health**

- 2.1 The Council's policies and strategic plans relating to Adult Social Services and Supporting People Programme for specialist Housing Support.
- 2.2 Responsibility for commissioning and contracting effective and efficient services across social care which can achieve real outcomes for residents and service users.
- 2.3 Chairing the Health & Wellbeing Board.
- 2.4 Meeting the Council's statutory functions under The Care Act, NHS and Community Care Act 1990, Immigration and Asylum Act 1999, Health Act 2006 and other appropriate legislation.
- 2.5 Ensuring that the needs of vulnerable adults are met.
- 2.6 Determining applications for financial assistance for community and voluntary organisations within the borough that fall within this portfolio.
- 2.7 Developing and monitoring service provision in respect of residential facilities, provided for older people, the chronically sick, disabled people, people with learning disabilities, people affected by HIV/Aids and people with mental health needs.
- 2.8 The development of joint and partnership working, including joint commissioning of services with the NHS for the provision of social and health care.

- 2.9 The development, monitoring and implementation of the Council's strategy in respect of better government for older people and people with disabilities.
- 2.10 The development of policies and strategies to retain and enhance high quality GP, other primary, community and acute health care services, including at Charing Cross Hospital and Milson Road Health Centre.
- 2.11 To act as Lead Member for physical health and wellbeing and to work with the Lead Member for Community Mental Health.

### **3. Public Health**

- 3.1 The promotion of health education and public awareness of health issues within the borough, and implementation and monitoring of projects and services in relation to public health provision.
- 3.2 The commissioning and contracting of local authority public health services within the borough, joint commissioning with partner organisations, and monitoring that these contracts are managed effectively.
- 3.3 Consultation with the agencies and voluntary organisations concerned with public health matters in the borough and encouraging and supporting the development of such organisations.
- 3.4 The establishment of partnerships and other forms of collaborative working with the DHSC and NHS partners to develop and monitor joint programmes and other projects and services relating to public health provision and education within the borough.
- 3.5 The development, monitoring and implementation of drug and alcohol policies.

### **4. Functions shared with the Cabinet Member for Children and Education**

- 4.1 Determining applications for financial assistance from the Voluntary Sector and Community Organisations within the Borough that fall within this portfolio.

#### **The Lead Officer(s) for this portfolio:-**

The Strategic Director of Independent Living (DASS)

The Director of Public Health

## ***Cabinet Member for Civic Renewal***

### **Scope of Portfolio**

#### **1. General**

- 1.1 Responsibility for connecting the Council's continuous improvement and cultural change agenda with residents and communities – so that the voice of residents helps to lead reform.
- 1.2 Representing the Council's views on matters of corporate or strategic policy and any other matters which are within these terms of reference.
- 1.3 Developing approaches to ensure that all residents have increasing access to opportunity across the social, cultural, political, and economic life of the borough.
- 1.4 Ensuring the Council's discussions with residents lead to policy development which reflects and is informed by genuine local concerns in line with the Council's commitment to doing things with residents rather than to them.
- 1.5 In consultation with the relevant portfolio holder, the planning, implementation and review of public consultation and community engagement initiatives relating to strategic, borough-wide issues and the impact of the Council's representation on external organisations.
- 1.6 Responsible for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.7 Oversight of Resident Engagement Boards.

#### **2 Communications and resident insight**

- 2.1 Working across the Council to develop effective strategies that improve all the Council's communications.
- 2.2 Ensuring customer satisfaction and clear communication is seen as central to everything everyone working at the Council says and does, ensuring all staff and contractors are better equipped to listen to, understand and respond to the concerns of residents and that all written communication meets set standards.
- 2.3 The Council's customer care and complaints policies. Ensuring that complaints are managed in an effective and timely fashion and that complaints are treated as an opportunity to learn and improve.
- 2.4 Policy and operational matters in relation to the Council's Resident Experience and Access programme to provide high quality telephone, internet and face to face access to a range of services from time to time.

2.5 Ensuring excellent resident access including Contact Centre and Resident Experience and Access Programme.

2.6 To continually improve residents' access to and experience of Council services by developing strategy, infrastructure, processes and culture around resident contacts.

### **3 Cohesion**

3.1 Recruit more volunteers and empower residents to undertake actions in their neighbourhood that will further their community's safety, wellbeing and pursuit of happiness.

3.2 Strengthen links with other municipalities around the world, particularly with our closest neighbouring liberal democracies in Europe.

3.3 Intelligently strengthen community resilience, working with mutual aid groups, residents' associations, amenity groups, Non-Governmental Organisations (NGOs), resident commissions, community services such as our food banks and local businesses.

3.4 Encouraging community activities including art, socials, gardening, sport and Neighbourhood Watches.

3.5 Support for and promotion of community and other events.

### **4 Armed Forces**

4.1 Drive forward Council policy and initiatives which seek to improve the housing options, career and other opportunities and inclusion of returning armed forces personnel and their families.

4.2 Support and assist the Royal British Legion and other voluntary organisations in recognising the work and sacrifice of armed forces personnel defending the UK, its interest and way of life.

4.3 Promote remembrance and commemorative events

### **5 Member Development and enquiries**

5.1 Advising on Councillors' training and development needs in relation to their representative roles, and liaison officers in respect of appropriate provision.

5.2 Informing Councillors of appropriate conferences and seminars, and making arrangements for them to attend such events.

5.3 Overseeing the effective operation and improvement of the councillor and MP enquiry service

**6. Working with the Cabinet Member for Public Realm and Cabinet Member for Economy**

6.1 On Arts, culture, heritage and tourism matters for the benefit of residents and visitors alike.

**The Lead Officer(s) for this portfolio:-**

Strategic Director of Independent Living (DASS)

The Director for Corporate Services

## ***Cabinet Member for Children and Education***

### **Scope of Portfolio**

#### **1. Children's Services functions:**

- 1.1 The Cabinet Member for Children and Education is designated the lead member for children's services as required by section 19(1) of the Children's Act 2004 and is responsible for:
- (a) education services - the Council's functions in its capacity as education authority, except those excluded under Section 18(3) of the Act (namely certain functions relating to education, higher education and adult education);
  - (b) social services - the Council's social services functions within the meaning of the Local Authorities Social Services Act 1970 insofar as they relate to children, and the Council's functions in relation to children and young people leaving care;
  - (c) health services - any health-related functions exercised on behalf of a National Health Service body under Section 75 of the Health Act 2006 insofar as they relate to children; and
  - (d) inter-agency co-operation - the arrangements for the Children's Trust and safeguarding duties set out in the Children Act 2004, in particular leading and building arrangements for inter-agency co-operation.
- 1.2 The above functions incorporate:
- (a) The Council's role as 'corporate parent', including assistance to young people up to 24 years who have been looked after 13 weeks beyond their 16th birthday, where circumstances justify.
  - (b) Fostering and adoption services.
  - (c) The Virtual School for looked after children.
  - (d) Locality Family Support Services.
  - (e) Children's Centres.
  - (f) Setting the overall direction in relation to the Council's funding of, and support to, schools.
  - (g) Children's Services asset management.
  - (h) The Council's interest in nursery and 'early years' education, learning out of school hours and subsidised and unsubsidised childcare.
  - (i) Commissioning and providing services to young people with disabilities in transition to adulthood.

- (j) Community budgeting including the Supporting Families programme (and any successor).
  - (k) Care Proceeding review.
  - (l) The development, implementation and monitoring of the Council's early years' strategy.
  - (m) Ensuring that the needs of vulnerable children (including young carers) are met.
  - (n) Partnership working with the National Health Service to promote the interests of children and their families, including decision-making on such matters at the Health and Wellbeing Board.
  - (o) As 'Young People's Champion', working with the Lead Member for Youth Advancement to further the Council's commitment to the involvement of young people in decision-making processes where appropriate.
- 1.3 Responsibility for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.4 Community transport services.
- 1.5 The implementation and monitoring of projects and services in relation to the borough's Youth Offending Service and youth justice matters.
- 2. Social Services functions:**
- 2.1 Meeting the Council's statutory functions in relation to children under the Children Act 1989, NHS and Community Care Act 1990, Immigration and Asylum Act 1999 and other appropriate legislation.
- 2.2 The Council's responsibilities towards unaccompanied asylum-seeking children.
- 2.3 The Council's regulatory duties in relation to children's social services.
- 2.4 Ensuring that families with social care needs experience a 'joined-up' service.
- 2.5 Developing and monitoring service provision in respect of residential facilities provided for the care of children.
- 2.6 Responsibility for commissioning and contracting effective and efficient services across Children's Services which can achieve real outcomes for residents and service users.
- 3. Education functions:**

- 3.1 Local schools, including improving education attainment across all state funded schools and the provision of schools of choice.
- 3.2 Plans for new educational provision in the borough (including academies and free schools).
- 3.3 Schools asset management.
- 3.4 The Council's consultation arrangements with schools, governors, parents and others.
- 3.5 Special education needs (SEN) and education for the talented and gifted.
- 3.6 The Council's interest in school admission and exclusion appeals, including the making of arrangements to determine appeals.
- 3.7 The Council's relationship with services for young people offering support and career guidance
- 3.8 Links to industry and business, through education business partnerships and the Young People's Learning Agency.
- 3.9 Appointments to school governing bodies.
- 3.10 The Council's interests in wider educational provision, including provision by the independent sector.
- 3.11 The implementation of the Schools Capital investment programme.
- 3.12 The Council's responsibility for policy and operation of the Council's education transport operation.

#### **4. Ensuring opportunities**

- 4.1 The Council's relationship with services for young people offering support with entrepreneurial activity and career guidance.
- 4.2 Ensuring opportunities for all by developing economic and social opportunities for disadvantaged young people, including excluded children and care leavers.
- 4.3 Sports activities for children and young people in schools.
- 4.4 Fostering and supporting community resilience where it relates to young people, and the networks of residents, organisations and businesses that support this.
- 4.5 Youth services and its encouragement of other services to young people.

4.6 Determining applications for financial assistance from the Voluntary Sector and Community Organisations within the Borough that fall within this portfolio.

**5 Functions shared with Cabinet Member for Climate Change and Ecology**

5.1 Responsible for ensuring our climate education programme continues to expand across schools in the borough and for other climate initiatives in schools including decarbonising Council schools.

**The Lead Officer(s) for this portfolio:-**

The Strategic Director of Children's Services

## ***Cabinet Member for Climate Change and Ecology***

### **Scope of portfolio**

#### **1. Environment functions**

- 1.1 The preparation and consideration of environmental improvement schemes including responsibility for policies relating to the Council's value 'rising to the challenge of climate and ecological emergency'.

#### **2. Climate Change**

- 2.1 Responsibility for the implementation of the Council's Climate and Ecology Strategy to achieve net zero carbon by 2030.
- 2.2 Delivery of our Clean Air Strategy including the expansion of our air monitoring network.
- 2.3 Lead for the promotion and development of renewable energy initiatives on council-owned and managed properties as well as the wider borough.
- 2.4 Delivery of retrofitting and improvement programme to make council homes more energy efficient and help cut heating bills.
- 2.5 Responsible for ensuring our climate education programme continues to expand across schools in the borough and for other climate initiatives in schools including decarbonising council schools.
- 2.6 Ensuring the highest possible planning and design standards are used to ensure that all new major developments in the borough are net zero as a minimum.
- 2.7 Responsibility for the development of the 'Library of Things' work to share commonly used equipment.

#### **3. Ecology**

- 3.1 Responsible for the implementation of the Council's Climate and Ecology Strategy in parks and green spaces.
- 3.2 Development and implementation of a biodiversity action plan for the borough, building on the work of the biodiversity commission.
- 3.3 Responsible for the borough's Tree Strategy; increasing the number of tiny forests, promoting rewilding and encouraging natural habitats and increasing the number of street trees.

**4. Functions Shared with Cabinet Member for Public Realm:**

Direct input and shared agreement on following areas with Cabinet Member for Public Realm, ensuring they advance the Council's climate and biodiversity strategies:

- Parking policy
- Strategic transport planning, including EV charging
- Measures to improve air quality
- Management of parks and green spaces
- Refuse collection
- Waste disposal
- Recycling
- Food waste and composting
- Street cleansing
- Fly-tipping sewerage
- Sustainable drainage systems (SuDS)

**The Lead Officer(s) for this portfolio:-**  
The Strategic Director of Environment

## ***Cabinet Member for the Economy***

### **1. Scope of portfolio**

- 1.1 Responsibility for ensuring that the Council's value 'Building Shared Prosperity' is uppermost in all Council regeneration and economic proposals.
- 1.2 Responsibility for the renewal and regeneration of the borough especially its most deprived parts.
- 1.3 Responsibility for providing leadership on the economic aspects of Covid-19 response and recovery.
- 1.4 Developing policies and programmes to eradicate physical, economic and social deprivation.
- 1.5 To champion the development of local businesses and to promote business start-ups.
- 1.6 To work with West London, London, and National structures to support local businesses.
- 1.7 To remove barriers that small firms may face when attempting to secure Council contracts.
- 1.8 Monitoring the local employment situation and developing and implementing appropriate action in relation to the encouragement, promotion and development of employment training opportunities and services.
- 1.9 Establishing and maintaining effective working partnerships with local businesses in pursuance of the Council's Industrial Strategy, including for the White City Innovation District.
- 1.10 The development, monitoring and implementation of the Council's regeneration strategy and associated bidding processes.
- 1.11 The development, monitoring and implementation of the Council's strategic policy and operational matters relating to the European Union and the development of world class economic linkages particularly for the White City Innovation District.
- 1.12 Compulsory purchase of land for planning purposes.
- 1.13 Development of strategies in relation to the future of the West Kensington and Gibbs Green estates and the surrounding regeneration area.
- 1.14 The development and implementation of the Authority's planning policies
- 1.15 Development of housing policy to support the building of new homes which

will act as a catalyst for regeneration.

- 1.16 Responsibility for managing the Council's corporate property services: Facilities Management, Asset Management. This includes direct oversight of the council's commercial and administrative property portfolios. These functions also support wider Council departments with the management of their portfolios.
- 1.17 Determining annual allocations in respect of the Housing Capital Programme in respect of the Housing development programme.
- 1.18 Delivery of the Civic Campus programme.
- 1.19 In the absence of the Leader and Deputy Leader, to take urgent decisions except with regard to those areas/powers specifically reserved for decisions to the Council itself.

## **2. Employment and Economic Development**

- 2.1 The promotion of employment, economic development, training, work experience, and other forms of support which the Council can target to meet the needs of unemployed people within the borough.
- 2.2 The development, monitoring and implementation of the Council's responses to Government initiatives and programmes in respect of unemployed people in the borough.
- 2.3 Promotion of an entrepreneurial culture in schools, colleges and promoting tomorrow's entrepreneur.
- 2.4. Determining applications and the approval of grants and loans to firms, community and voluntary organisations, charities and trusts for the purposes of economic development (excluding children and education) within the borough.
- 2.5 Adult and Community Education
- 2.6 Ensuring the Council acts as a responsible corporate citizen towards small businesses.

## **3. Planning and building control**

- 3.1 Oversight of planning regulations for new developments.
- 3.2 The Authority's powers and duties under all relevant legislation pertaining to building control.
- 3.3 The inclusion of buildings in the List of Buildings of Special Architectural or Historic Interest.

3.4 The exercise of the Authority's functions under Part II of the London Buildings Act (Amendment) Act 1939 in relation to the naming and numbering of streets and buildings.

**4. Licensing policy**

4.1 Working with the President of the Enterprise Board on oversight and development of the Council's licensing policy.

4.2 Development of the gambling policies.

**5. Functions shared with the Cabinet Member for Climate Change and Ecology**

5.1 Ensuring the highest possible planning and design standards are used to ensure that all new major developments in the borough are net zero as a minimum.

**6. Functions shared with the Cabinet Member for Finance and Reform**

6.1 To oversee the allocation of Section 106 and Community Infrastructure Levy monies to projects, ensuring that this is consistent with their prescribed uses, the community's interests and the Council's priorities.

**7. Working with the Cabinet Member for Public Realm and Cabinet Member for Civic Engagement**

7.1 On Arts, culture, heritage and tourism matters for the benefit of residents and visitors alike.

**The Lead Officer(s) for this portfolio:-**

The Strategic Director of the Economy

The Strategic Director of Environment

## ***Cabinet Member for Finance and Reform***

### **1. Scope of portfolio**

#### **Finance**

- 1.1 The Council's capital and revenue budgets, including the HRA, the medium-term financial strategy, annual proposals on the Council Tax base, Council Tax levels and budget allocations between departments.
- 1.2 Responsibility for the monitoring of revenue and capital budgets and ensuring there are robust financial management systems.
- 1.3 Responsibility for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.4 Responsibility for Pension Fund management.
- 1.5 Responsibility for Treasury Management.
- 1.6 Probity and financial monitoring.
- 1.7 Preparation of annual accounts.
- 1.9 Responsibility for the Council's Corporate Procurement Strategy and the implementation of the National Procurement Strategy.
- 1.10 Responsibility for procurement in accordance with the Council's social and economic value procurement policy.
- 1.11 Responsibility for Information Technology.
- 1.12 The strategic implementation of the Council's Digital Strategy, Information Management and Information Technology Strategy and the achievement of the Government's targets for electronic service delivery.
- 1.13 Responsibility for the monitoring and effective delivery of corporate Shared Services and other joint working initiatives.
- 1.14 Representing the Council's views on strategic policies related to corporate Shared Services.
- 1.15 Responsibility for Council's contract processes, including approval of changes to the Council's Contracts Standing Orders and Approved List of Contractors, ensuring services are in compliance with procurement legislation.
- 1.16 Ensuring that the Council's procurement of goods and services delivers added local value for residents, the third sector and local businesses.

- 1.17 Responsibility for overall contract management arrangements.
- 1.18 Responsibility for the billing and collection of council tax and business rates and the administration housing benefit, council tax support and other benefits administered by the Council.
- 1.19 Developing strategies and practices that improve the Council's ability to procure locally sourced, value for money goods and services.

## **2. Commercial Revenue Generation**

- 2.1 Responsibility for working across the Council to maximise new sources of income generation from the commercial sector.
- 2.2 Generating new revenue and practices that do not entail raising new charges and fines that target residents or local businesses.
- 2.3 Agreeing and monitoring annual revenue generation targets.

## **3. Reform functions**

- 3.1 To drive reform and a modernisation programme across the organisation in line with the Vision, Business Plan and strategies so that the outcomes our residents receive are higher quality, better value and continuously improve and fit a modern organisation.
- 3.2 To drive an enabling corporate centre to support efficiencies, fundamental systems reform, assurance, business intelligence and the development and effective operation of the Council's major programmes and projects. To lead improvements in organisational culture and behaviours, to disrupt the status quo, and build new alliances with organisations across the public, private and third sector to achieve the objectives set out in 3.1.
- 3.3 To implement strategies that help our teams have better capabilities, and work practices so that Hammersmith & Fulham stands out as the best, most effective council anywhere.

## **4. Improving the Council's Ability to Deliver High Quality Services and Manage People**

- 4.1 Responsibility for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 4.2 Responsibility for oversight of all the Council's management structures, behaviours, and work practices with the aim of developing a culture of continuous improvement.
- 4.3 Developing, monitoring and implementing strategies to optimise the Council's management and work practices.

- 4.4 Identifying weak or failing services and working with officers to lead and support improvements.
- 4.5 Challenging and promoting the development of talent schemes; to grow our own talent, becoming more efficient as an organisation; and driving down the need for agency spend and recruitment overheads.
- 4.6 Implementing the use of incentives and other mechanisms for recording excellence.
- 4.7 Responsibility for oversight all human resources policies including:
- Systemic change programmes
  - Reward and remuneration
  - Employee relations
  - Resourcing and recruitment
  - Employee engagement and development
  - Organisation development
  - Organisation design and establishment
  - Wellbeing
- 4.8 Working across the council to develop effective strategies that improve all the Council's internal communications.

## **5. Elections**

- 5.1 The provision of services in respect of electoral and other registration services.

## **6. Legal Services**

- 6.1 The provision of legal services to the Council.

## **7. Functions shared with the Cabinet Member for Civic Renewal**

- 7.1 Responsibility for connecting the Council's continuous improvement and cultural change agenda with residents and communities – so that the voice of residents helps to lead reform.

## **8. Functions shared with the Cabinet Member for Housing and Homelessness**

- 8.1 For the purposes of estimate preparation, monitoring and control and staffing/industrial relations issues, the Cabinet Member for Finance & Reform is responsible for all non-housing budgets and (in conjunction with the Cabinet Member for Housing and Homelessness) for all housing budgets.
- 8.2 Ensuring, in consultation with the relevant Cabinet Member, that adequate performance and quality is obtained from all Council contracts let, and on

those services provided by the Council, that services are delivered to ensure client and resident satisfaction.

**9. Functions shared with the Cabinet Member for Economy**

9.1 Developing strategies and practices that improve the Council's ability to procure locally sourced, value for money goods and services.

9.2 To oversee the allocation of Section 106 and Community Infrastructure Levy monies to projects, ensuring that this is consistent with their prescribed uses, the community's interests and the Council's priorities.

**The Lead Officer(s) for this portfolio:-**

The Strategic Director of Finance

The Director of Corporate Services

## ***Cabinet Member for Housing and Homelessness***

### **1. Scope of portfolio**

- 1.1 Exercising the Council's powers and duties as a local housing authority, including new or unallocated housing and associated functions.
- 1.2 The Council 's powers and duties in relation to declaring renewal areas and clearance areas.
- 1.3 Responsibility for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.4 Housing land and property assets and, where appropriate, declaration of them as surplus to requirements.
- 1.5 The Council 's powers and duties in relation to private sector housing (including energy conservation).
- 1.6 All aspects of housing services, housing policy and the housing programme and any other new or unallocated housing and associated functions.
- 1.7 The Housing Revenue Account (HRA) housing strategy, policy and forward programme through its business plan, Housing Investment Programme Strategy and other policy documents.
- 1.8 The level of rents and charges for property and services within the Housing Revenue Account and for any other property and services within the General Fund.
- 1.9 The disposal of individual void properties within the agreed criteria.
- 1.10 Determining annual allocations in respect of the Housing Capital Programme including:
  - Conversion and modernisation of Council housing
  - Registered Social Landlords
  - Assistance for new build and rehabilitation schemes
  - Home loans and improvement grants
  - Housing stock, including acquisition and improvement
  - Clearance areas and compulsory purchase of property
  - Renewal areas and area improvement.
- 1.11 The Council's powers and duties in relation to energy conservation in public sector housing.
- 1.12 The development, monitoring and implementation of the Council's responses to Government initiatives and programmes in respect of housing.

1.13 Strategic overview and development of policies to improve the private rented housing sector.

**2. Functions shared with the Cabinet Member for Economy**

2.1 Compulsory purchase of land for housing purposes.

**3. Functions shared with the Cabinet Member for Social Inclusion and Community Safety**

3.1 To develop policies and programme to tackle homelessness and support people to secure and maintain living in safe and suitable accommodation.

3.2 Responsibility for anti-social behaviour on Housing land.

**4. Functions shared with the Cabinet Member for the Public Realm and The Cabinet Member for Social Inclusion and Community Safety**

4.1 To ensure that Law Enforcement Team tackles anti-social behaviour.

**5. Functions shared with the Cabinet Member for Finance and Reform**

5.1 For the purposes of estimate preparation, monitoring and control and staffing/industrial relations issues, the Cabinet Member for Finance is responsible for all non-housing budgets and (in conjunction with the Cabinet Member for Housing and Homelessness) for all housing budgets.

**6. Functions shared with the Cabinet Member for Climate Change and Ecology**

6.1 Delivery of retrofitting and improvement programme to make council homes more energy efficient and help cut heating bills.

**The Lead Officer(s) for this portfolio:-**

The Strategic Director of Economy

## ***Cabinet Member for Public Realm***

### **Scope of portfolio**

#### **1. Transport, Highways and Parking**

- 1.1 Consult widely with residents and local businesses and work with them to expand schemes which improve air quality by reducing traffic, congestion and pollution.
- 1.2 Continue to expand the availability of Electric Vehicle (EV) charging points.
- 1.3 The maintenance and management of the Borough's roads, river walls, draw docks, all subways, bridges including Hammersmith Bridge, and other civil engineering structures.
- 1.4 The Council's local Transport Plan and Borough Spending Plan.
- 1.5 Strategic transport planning, including links with the Local Plan, Industrial Strategy and related documents and processes.
- 1.6 Parking policy implementation and enforcement.
- 1.7 Promote cycling, including increase cycle storage and safe cycle paths.
- 1.8 20mph speed limit and delivery drivers' code of conduct.
- 1.9 Responsibility for providing leadership on Covid-19 response and recovery for all matters within this portfolio.
- 1.10 High streets including pop-up meanwhile spaces.
- 1.11 Policy and operational matters in relation to libraries, hiring of civic halls and facilities.

#### **2 Street Scene functions**

- 2.1 Policy and service implementation in respect of mortuary, burial, cremation and Coroner services.

#### **3. Borough development**

- 3.1 Working closely with residents and community groups to encourage developers to build beautiful buildings that meet the needs of the community and are in keeping with the character of the neighbourhoods they would be in.
- 3.2 Developing our neighbourhoods for the future.
- 3.3 Street property taskforce.

3.4 A4 fly-under and the redesign of central Hammersmith, with new genuinely affordable homes, affordable office space and a more attractive town centre for all residents, including cultural corridor from Civic Campus to Olympia.

#### **4. Culture, Heritage, Sports, Arts and Tourism**

4.1 To formulate and implement policies likely to promote the development preservation and enhancement of culture, heritage and tourism within the borough for the benefit of residents and visitors alike.

4.2 The Council's Culture, Heritage, Arts and Tourism policies/strategies.

4.3 To promote and assist the provision of good quality theatre, museum and other cultural facilities within the borough

4.4 The Council's sports strategy.

4.5 Provision and support of community centres

#### **5. Shared with Climate Change and Ecology:**

5.1 Agree the following policy areas, in conjunction with the Cabinet Member for Climate Change and Ecology, to ensure that the services enhance the borough's public realm.

- Parking policy
- Strategic transport planning, including EV charging
- Measures to improve air quality
- Management of parks and green spaces
- Refuse collection
- Waste disposal
- Recycling
- Food waste and composting
- Street cleansing
- Fly-tipping
- Sewerage and sustainable drainage systems (SuDS)

#### **The Lead Officer(s) for this portfolio:-**

The Strategic Director of Environment

The Strategic Director of Economy

## ***Cabinet Member for Social Inclusion and Community Safety***

### **1. Social Inclusion**

- 1.1 The development and implementation of the Council's Third Sector strategy, including the promotion of social enterprises that promote community development.
- 1.2 Developing and leading approaches to ensure that all residents have increasing access to opportunity across the social, cultural, political and economic life of the borough.
- 1.3 Delivering community and cultural events that promote social inclusion and community cohesion.
- 1.4 Developing strategic approaches to reduce inequalities around health, education and employment outcomes, access to services, participation in civic life and ensuring compliance with all legal equalities duties.
- 1.5 Developing strategic policies and actions to reduce poverty and social injustice.
- 1.6 The development and implementation of strategies to address the threat of extremism, including the Prevent Strategy and strategic member oversight of the Prevent Channel panel.

### **2. Community Safety**

- 2.1 The development, monitoring and implementation of the Council's policies and powers in relation to reducing crime and anti-social behaviour.
- 2.2 The development, monitoring and implementation of the Authority's element of the borough Crime and Disorder Reduction Strategy in conjunction with Police and other agencies.
- 2.3 Responsibility for ensuring the Local Enforcement Team performs well and work alongside the Metropolitan Police.
- 2.4 Responsibility for ensuring the effective running and establishment of Neighbourhood Watch Groups in the borough, working in partnership with the Metropolitan Police.
- 2.5 Policy and strategy for the Community Safety division.
- 2.6 Working with all agencies to ensure enforcement services are effective in reducing crime and anti-social behaviour including:
  - All forms of criminal behaviour;
  - Litter;

- “Clean Sweep” - Tackling “Grot Spots”;
- Dog fouling;
- Graffiti;
- Street drinking; and
- Street scene enforcement.

2.7 Taking action to reduce fear of crime.

### **3. Refugees**

3.1 Ensure unaccompanied child refugees, refugees and asylum seekers have access to services and their needs are taken into account when developing Council policies as a compassionate council.

3.2 Take pride in Hammersmith & Fulham, and work in a joined-up way – making connections between unaccompanied child refugees, refugees and asylum seekers, charities, local community groups and residents; and work towards becoming a borough of sanctuary.

3.3 Seek to improve the lives of unaccompanied child refugees, refugees and asylum seekers in areas including: social inclusion, housing, well-being, education and career development, and reduce poverty and social injustice.

3.4 Review and monitor the Council’s achievements in resettling vulnerable refugee families through the Syria, Afghan, & Ukraine Resettlement Programs; and the care provided by Children’s Services to unaccompanied child asylum seekers and child refugees, and other programs of support.

### **4. Street Scene functions**

4.1 Enforcement in respect of licensing, consumer protection, trading standards, street trading, environmental health and public safety, corporate health and safety, pest control, food safety and contaminated land.

4.2 The issuing of notices and enforcement requirements as set out in the Environmental Protection Act.

4.3 Enforcement of the Council’s licensing and gambling policies.

4.4 The exercise of duties of the Council with respect to Emergency Planning and business continuity services.

### **5. Functions shared with the Cabinet Member for the Public Realm, Cabinet Member for Social Inclusion and Community Safety, and Cabinet Member for Housing and Homelessness**

5.1 To ensure that Law Enforcement Team tackles anti-social behaviour.

### **6. Functions shared with the Cabinet Member for Children and Education**

- 6.1 The implementation and monitoring of projects and services in relation to the borough's Youth Offending Service, Gangs Unit and youth justice matters.
- 6.2 Youth services and its encouragement of other services to young people.
- 6.3 Sports activities for children and young people.
- 6.4 Determining applications for financial assistance from the Voluntary Sector and Community Organisations within the Borough that fall within the portfolio.

## **7. Functions shared with the Cabinet Member for the Economy**

- 7.1 The promotion of employment, economic development, training, work experience, and other forms of support which the Authority can target to meet the needs of unemployed people within the Borough.
- 7.2 The development, monitoring and implementation of the Authority's responses to Government initiatives and programmes in respect of unemployed people in the Borough.
- 7.3 Promotion of an entrepreneurial culture in schools, colleges and promoting tomorrow's entrepreneurs.
- 7.4 Determining applications and the approval of grants and loans to firms, community and voluntary organisations, charities and trusts for the purposes of economic development (excluding children and education) within the borough.

## **8. Function shared with the Cabinet Member for Housing and Homelessness**

- 8.1 To develop policies and programme to tackle homelessness and support vulnerable people to secure and maintain living in safe and suitable accommodation.
- 8.2 Responsibility for anti-social behaviour on Housing land.

## **9. Functions shared with the Deputy Leader**

- 9.1 The development, monitoring and implementation of drug and alcohol policies.

## **10. Functions shared with the Cabinet Member for Finance and Reform**

- 10.1 Ensuring resident and business satisfaction is measured and improved, including encouraging and rewarding staff ideas for improving resident satisfaction.

## **11. Function shared with the Cabinet Member for Public Realm and the Cabinet Member for Housing and Homelessness**

11.1 To ensure that the Law Enforcement Team tackles anti-social behaviour.

### **The Lead Officer(s) for this portfolio:-**

The Strategic Director of Environment

Strategic Director of Independent Living (DASS)

The Strategic Director for Economy

## **Lead Members**

### ***President – H&F Enterprise Board***

Reporting to the Cabinet Member for the Economy and the Leader to champion the business sector and ensure businesses in Hammersmith & Fulham have a strong voice. The postholder will form an H&F Enterprise Board and serve as its President, with the following responsibilities:

- Convene businesses to develop policies to make H&F the best place in Britain to do business.
- Encourage entrepreneurialism.
- Encourage skills development to ensure H&F residents have access to the best jobs.
- Develop, lead and mentor business support schemes.
- Review H&F procurement strategy to ensure local businesses are prioritised.
- Lead pitches to attract anchor businesses and institutions in line with H&F's industrial strategy.
- The post holder will act as lead member for Upstream.
- Lead on licensing policy

### ***Lead Member for European Co-operation and Digital Innovation***

This post holder will work directly with the Cabinet Members for Civic Renewal, the Economy and Finance and Reform to:

- Strengthen our links with other municipalities around the world and particularly with our closest neighbouring liberal democracies in Europe.
- Develop and implement initiatives to ensure residents and businesses from the European Union continue to feel welcome in the Borough and are supported to navigate any obstacles caused by the UK's exit from the European Union.
- Twin with global innovation districts.
- Identify opportunities for the council to use innovative digital technologies to improve services to residents and support the borough's industrial strategy.

## **Lead Member for Culture and Heritage**

This post holder will work directly to the Cabinet Member for the Public Realm to:-

- Develop an improved arts and culture programme which adds to the quality of life for everyone who lives in Hammersmith & Fulham.
- Work to ensure our local arts and culture fully reflects the diversity of the borough.

The post holder will work with the Cabinet Member for Civic Renewal who has responsibility for encouraging street theatre and arts.

## ***Lead Member for Community Mental Health***

This post holder will work directly to the Deputy Leader and ensure that people with specialist mental health, learning disabilities and autism get the high-quality support they need from the council and NHS, other public bodies operating in the borough and local businesses.

Work with the Deputy Leader to tackle the mental health crisis triggered by the Covid-19 pandemic including manifesto commitments for counselling in schools, mental health gardens, wellbeing hubs and family and paediatric hubs.

## ***Lead Member for Support for Older People***

This post holder will work directly to the Deputy Leader and acts as the Older People's Champion, as recommended by H&F's independent Older People's Commission. They will be responsible for helping make H&F the best place to grow older.

## ***Lead Member for Inclusive Community Engagement and Co-Production***

This post holder will work directly to the Deputy Leader with some crossover with the Cabinet Member for Civic Renewal and the Cabinet Member for Social Inclusion and Community Safety.

Work to expand co-production with Disabled resident and other across all council departments and services and ensure staff are properly trained in genuine co-production.

Encourage and support the third sector to co-produce their services.

Input into the co-production of a new, post-pandemic Third Sector Strategy.

## ***Lead Member for Youth Advancement***

Reporting to the Cabinet Member for Children and Education and the Cabinet Member for Social Inclusion and Community Safety, this post holder will:

- Advance the cause of making Hammersmith & Fulham an amazing place for

- young people to grow and be safe.
- Input into the plans and approaches of the Youth Offending Service.
- Act as a link between the Youth Council and the Council.

### ***Lead Member for Women and Girls***

Reporting to the Cabinet Member for Social Inclusion and Community Safety, this post holder will input on policies and plans in the council to ensure that women and girls feel safe in the borough and have equal access to all services and opportunities in the borough.

### ***Lead Member for Flood Mitigation***

Reporting to the Cabinet Member for Public Realm and Climate Change, this post holder will input on policies and plans in the council to ensure that the Council maximises its response to flood mitigation in the borough and promote sustainable drainage across the Council's assets owners and decision makers.

### ***Lead Member for Energy Crisis Support***

The postholder will be working with the Cabinet Member for Social Inclusion and Community Safety:

- Overseeing the provision of warm hubs to residents
- Reviewing residents' access to energy
- Partnership working with organisations supporting vulnerable residents suffering from significant cost of living pressures.

### ***Lead Member for Wellbeing and Early Access to Support***

Reporting to the Cabinet Member for Social Inclusion and Community Safety and the Deputy Leader, the post holder will:

- Promote an enhanced focus on wellbeing in communication with adult residents.
- Promote knowledge of and early access to support services within the borough.

### ***Borough Representative for the Armed Forces Community***

This post-holder will work directly with the Cabinet Member for Civic Renewal to:

- Improve the lives of armed forces personnel and their families. Support and assist the Royal British Legion and other voluntary organisations in recognising the work and sacrifice of armed forces personnel defending the UK, its interests and way of life.
- Promote remembrance and commemorative events.

## **Committee Terms of Reference**

### **Urgent Sub-Committee of the Cabinet Terms of Reference**

#### **Members**

3 Members of the Cabinet notified to the Chief Executive by the Leader of the Council or in his/her absence the Deputy Leader of the Council

#### **Quorum**

3 members of the Cabinet

#### **1. Membership**

- 1.1 The Leader will Chair the Committee. In the absence of the Leader or Deputy Leader, the members present shall elect a Chair for the meeting from among the members then present, who shall have the second or casting vote. If the Chair subsequently attends the meeting, the person then in the Chair shall vacate it.

#### **2. Voting**

- 2.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chair of the Committee shall have a second casting vote.

#### **3. Procedures**

- 3.1 Except as provided herein, Council Procedure Rules (as applicable to all Committees) shall apply in all other respects to the conduct of the Committee.
- 3.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

#### **4. Meetings**

- 4.1 Meetings will be convened at the request of the Chief Executive as required during the Municipal Year.

#### **5. Responsibilities**

- 5.1 All matters, within the terms of reference of the Cabinet, which the Urgency Committee of the Cabinet is satisfied are Urgent and cannot wait for a decision by the Cabinet at its next scheduled meeting.
- 5.2 To make a recommendation direct to the Council on any urgent matters which by statute or under the Council's executive arrangements must be determined by full Council.

## **Planning and Development Control Committee**

### **Terms of Reference**

#### **Members**

8 voting councillors  
There shall be no ex-officio members

#### **Quorum**

4 members of the Committee

#### **Political proportionality**

6 Administration members  
2 Opposition members

#### **Co-opted Members**

None

### **1. Membership**

- 1.1 Only Councillors who have undertaken appropriate training can participate on this Committee.

### **2. Decision-making Powers**

- 2.1 To exercise non-executive powers of the Council in its capacity as local planning authority, including those non-executive functions referred to in the following paragraphs.
- 2.2 To determine applications for planning permission and exercise the other non-executive powers within Part III of the Town and Country Planning Act 1990 ("the Act") and subordinate and associated legislation.
- 2.3 To authorise the Chief Planning Officer to determine planning applications which have been considered by the Committee in circumstances where the Committee's intention has been clearly stated, but where the Committee has instructed that further work is to be undertaken before the application is determined, and to authorise officers to enter into agreements under section 106 of the Act.
- 2.4 To authorise officers to enter into agreements under Section 16 of the Greater London Council (General Powers) Act 1974, sections 278 and 38 of the Highways Act 1980 and any other sections of the Highways Act 1980 where required in connection with a planning application
- 2.5 To determine applications for certificates of lawful use or development referred to in Part VII of the Act.
- 2.6 To determine applications for advertisement consent made under Part VIII of the Act and the Town and Country Planning (Control of Advertisement) Regulations 1992.
- 2.7 To enforce development control under Part VII of the Act including the power to authorise service of enforcement notices, breach of condition notices and stop notices, the application for injunctions and the carrying out of subsequent and incidental action to secure compliance with the Council's requirements as local planning authority.

- 2.8 To determine applications by the Council for planning permission and other consents under the Act and the Town and Country Planning (General Regulations) 1992.
- 2.9 To exercise the powers of the Council under Part VIII of the Act in relation to trees and proper maintenance of land, and under regulations made under this part of the Act, including the making of tree preservation orders, and authorising the service of notices to require the proper maintenance of land which adversely affects the amenity of the neighbourhood.
- 2.10 To exercise the non-executive powers of the Council as local planning authority in relation to listed buildings and conservation areas under the Planning (Listed Buildings and Conservation Areas) Act 1990 and subordinate and associated legislation.

## **Licensing Committee**

### **Terms of Reference**

#### **Members**

12 voting councillors  
There shall be no ex-officio members

#### **Quorum**

6 members of the Committee

#### **Political proportionality**

9 Administration members  
3 Opposition members

#### **Co-opted Members**

None

### **1. Sub-Committees**

- 1.1 The Committee may establish Sub-Committees comprising 3 members drawn from the parent Committee, and may delegate any, or all, of its functions to such Sub-Committees or to an Officer, subject to any statutory restrictions.

### **2. Statutory status**

- 2.1 The Licensing Committee is constituted as Licensing Committee under s6 of the Licensing Act 2003 in respect of licensing and related functions under that Act, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions.

### **3. Operational Matters**

- 3.1. In the event of an equality of votes, the Chair of the Committee shall have a second or casting vote.
- 3.2. A member may consider any matter affecting their Ward, or in which they (or their spouse/partner) has a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct (This provision takes over the administrative arrangements set out in paragraph 23.4 of the Council's Statement of Licensing Policy, January 2011, revised July 2012).
- 3.3. Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations on behalf of their constituents.
- 3.4. Meetings will take place during the Municipal Year on dates and times as notified and as required.

### **4. Decision-Making Powers**

- 4.1. All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, (other than the adoption of the Licensing Policy, which shall be a matter for Full Council), shall be discharged by the Licensing Committee.

- 4.2. The Committee (or any Sub-Committee established for the purpose) shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the four licensing objectives:
- The prevention of crime & disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 4.3. The Committee (or any Sub-Committee) shall have regard to the Statement of Licensing Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.
- 4.4 To consider and resolve all other matters relating to the licensing, certification and registration functions of the Council undertaken by the Director of Environmental Health.
- 4.5 To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 3.4.
- 4.6 To hear and determine all applications for full or partial waivers of the rule of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.
- 4.7 To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- 4.8 To designate streets as prohibited or licence streets.

## **Licensing Sub-Committee**

### **Terms of Reference**

#### **Members**

3 voting councillors, drawn from the membership of the Licensing Committee.  
There shall be no ex-officio members.

#### **Quorum**

2 members of the Sub-Committee

#### **Political proportionality**

(Where applicable)

2 Administration members  
1 Opposition member

#### **Co-opted Members**

None

### **1. Statutory status**

- 1.1 The Licensing Committee is constituted as Licensing Committee under s6 of the Licensing Act 2003 in respect of licensing and related functions under that Act, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions

### **2. Operational Matters**

- 2.1. In the event of an equality of votes, the Chair of the Sub-Committee shall have a second or casting vote.
- 2.2. A member may consider any matter affecting their Ward, or in which they (or their spouse/partner) have a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct. (This provision takes precedence over the relevant arrangements set out in paragraph 23.4 of the Council's Statement of Licensing Policy, January 2011, and revised July 2012).
- 2.3. Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations as interested parties themselves, or on behalf of their constituents, where permitted by the relevant legislation.
- 2.4. Meetings will take place during the Municipal Year on dates & times as notified and as required.

### **3. Decision-Making Powers**

- 3.1. All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, (other than the adoption of the Licensing Policy, which shall be a matter for Full Council).

- 3.2. The Sub-Committee shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the four licensing objectives:
  - The prevention of crime & disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 3.3. The Sub-Committee shall have regard to the Statement of Licensing Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.
- 3.4. To consider and resolve all other matters relating to the Licensing, Certification and Registration functions of the Council (i.e. matters other than those under the Licensing Act 2003).
- 3.5. To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 3.4.
- 3.6. To hear and determine all applications for full or partial waivers of the Rules of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.
- 3.7. To make regulations prescribing standard conditions to be attached to street licences, to revoke, to refuse to grant, to refuse to renew and to make or vary the conditions attached to a street trading licence.
- 3.8. To designate streets as prohibited or licence streets, where the determination of the matter could not wait until the subsequent meeting of the Licensing Committee.

## **Appointments Panel**

### **Terms of Reference**

#### **Panel A – For the appointment of the Council’s Chief Executive**

##### **Membership (5 – 4:1)**

- Leader of the Council
- 3 members of the Executive (Cabinet)
- Leader of the Opposition

**Quorum: 3**

#### **Panel B - For appointment of LBHF Statutory and Non-Statutory Chief Officers\***

##### **Membership (5 – 4:1)**

- The Leader (Chair) or a substitute
- Deputy Leader (Vice-Chair) or a substitute
- The Cabinet Member of the relevant appointment area (where there is an overlap between two Cabinet portfolios, both Cabinet Members should attend)
- Another Cabinet Member
- Leader of the Opposition or a named substitute

**Quorum: 3**

#### **Other Appointments**

Appointments to all other roles, other than those statutory and non-statutory Chief Officers who report directly to the Chief Executive, is the responsibility of the Council’s Head of Paid Service.

### **Decision-making powers (PANELS A&B)**

- To carry out interviews and recommend to Full Council the appointment to the position of Chief Executive.
- To carry out interviews and recommend to Full Council the designation of a Chief Officer as Head of Paid Service where this is not the Chief Executive (or an interim position arises).
- To carry out interviews and appoint to the position of statutory and non-statutory Chief Officers\*.
- To recommend to the Chief Coroner the appointment to the role of Area Coroner or Senior Coroner.
- Interim appointments do not require an Appointments Panel.

### **Roles for Appointment**

The roles covered by the Chief Officers Appointment Panel are:

- 1) Head of Paid Service (Chief Executive)
- 2) Section 151 Officer (Director of Finance)
- 3) Strategic Director of Children's Services
- 4) Strategic Director of Independent Living (DASS)
- 5) Strategic Director of Environment
- 6) Strategic Director of Economy
- 7) Director of Corporate Services

### **Roles where the Council is the Lead Authority for Public Appointments but not the employer**

- 1) Senior Coroner
- 2) Area Coroner

*\*Any statutory and non-statutory Chief Officer post as defined in Section 2 of the Local Housing Act 1989 and which reports directly to the Chief Executive*

### **Convening**

The Chief Officers Appointment Panel is convened by the Assistant Director, People and Talent in consultation with Head of Paid Service (Chief Executive), the Leader of the Council, and the Cabinet Member covering the area of appointment.

## **PANEL C – Statutory and Non-Statutory Chief Officers Employment Panel**

### **Terms of Reference**

#### **Membership - 5**

The panel is comprised of:

- Leader of the Council or Deputy Leader of the Council
- Cabinet Member for Finance
- Two other Cabinet Member (Where the matter concerns the Disciplinary or Grievance Policy, the Cabinet Member for the area(s) involved may not sit on the Panel).
- One Opposition Member
- Independent co-optees (voting) as required by Regulations for investigation, disciplinary and dismissal of the Chief Executive, Head of Paid Service, Section 151 Officer and the Monitoring Officer.

#### **Quorum: 3 Councillors (plus 2 independent co-optees where required)**

#### **Decision-making powers**

To consider all matters related to the terms and conditions, and policies of employment, covering Chief Officers of the Council.

To consider disciplinary matters of statutory and non-statutory Chief Officers as defined in Section 2 of the Local Government and Housing Act 1989 and reports directly to the Chief Executive, subject to the requirements of those set out in the NJC for Chief Executives and NJC for Chief Officers and national procedures in place at the time.

To consider the suspension, investigation, disciplinary and/or grievance matters for the Head of Paid Service. To consider the suspension, investigation and/or disciplinary matters against the Section 151 Officer and Monitoring Officer.

To make recommendations to Full Council by means of a resolution for the dismissal of the Head of Paid Service, Section 151 Officer and/or Monitoring Officer as required by The Local Authorities (Standing Orders) (England) Regulations 2015 (“2015 Regulations”).

For the purposes of the 2015 Regulations, this Panel will act as the Grievance Committee and Investigating and Disciplinary Committee.

#### **Roles Covered by this Panel for terms and conditions of employment\***

- 1) Head of Paid Service (Chief Executive)
- 2) Section 151 Officer (Director of Finance)
- 3) Strategic Director of Children’s Services
- 4) Strategic Director of Independent Living (DASS)
- 5) Strategic Director of Environment
- 6) Strategic Director of Economy

7) Director of Corporate Services

**Roles covered by the panel for suspension, investigation, disciplinary and grievance**

- 1) Head of Paid Service (Chief Executive)

**Roles covered by the panel for suspension, investigation and disciplinary**

- 1) Section 151 Officer (Strategic Director of Finance)
- 2) Monitoring Officer (Director of Law and Governance)

**Roles covered by the panel for investigation and disciplinary**

- 1) Strategic Director of Children's Services
- 2) Strategic Director of Independent Living (DASS)
- 3) Strategic Director of Environment
- 4) Strategic Director of Economy

*\*(Any statutory and non-statutory Chief Officer post as defined in Section 2 of the Local Housing Act 1989 and reports directly to the Chief Executive)*

**Convening**

The Panel is convened by the Head of Paid Service or the Assistant Director, People and Talent.

## **Panel D – Statutory and Non-Statutory Chief Officers Employment Appeals Panel - Terms of Reference**

### **Membership – 3**

The panel is comprised of:

- Leader of the Council or Deputy Leader of the Council (provided they have not been on any preceding panel or a decision-maker on the matter being appealed) or a nominated substitute
- Cabinet Member (excluding any previously involved on the preceding panel or the Cabinet Member for the individual submitting their appeal)
- One Opposition Member

Quorum: 2 Councillors

### **Decision-making powers**

To consider the appeal of the decision to dismiss by means of redundancy, conduct or capability of any Chief Officer (other than the Head of Paid Service, Section 151 Officer or Monitoring Officer) where the decision has been made by the Chief Officers' Employment Panel or the Head of Paid Service.

To consider the appeal of the decisions to apply a sanction or uphold a decision to record a case of misconduct or capability taken by the Chief Officers' Employment Panel.

The decision to dismiss the Head of Paid Service, Monitoring Officer or Section 151 officer is a matter reserved to Full Council.

### **Roles Covered by this Panel for terms and conditions of employment\***

- 1) Strategic Director of Children's Services
- 2) Strategic Director of Independent Living (DASS)
- 3) Strategic Director of Environment
- 4) Strategic Director of Economy

\*(Any statutory and non-statutory Chief Officer post as defined in Section 2 of the Local Housing Act 1989 and reports directly to the Chief Executive)

### **Convening**

The Panel is convened by the Head of Paid Service or the Assistant Director, People and Talent.

Due to natural justice, the membership of Panels C and D cannot overlap.

## **Audit Committee Terms of Reference**

### **Members**

6 voting councillors

### **Quorum**

3 Members of the Committee

### **Political proportionality**

4 Administration members

2 Opposition members.

### **Co-opted Members**

The Committee may co-opt non-voting independent members as appropriate

## **1. Membership**

- 1.1 The Chair will be drawn from one of the Administration Councillors; the Vice-Chair will be an Opposition Councillor.
- 1.2 The Committee may co-opt non-voting independent members as appropriate.
- 1.3 The Committee may ask the Director of Audit, Fraud, Risk and Insurance, a representative of External Audit, the Risk Management Consultant, and any other official of the organisation to attend any of its meetings to assist it with its discussions on any particular matter.

## **2. Voting**

- 2.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chair of the Committee shall have a second casting vote. Where the Chair is not in attendance, the Vice-Chair will take the casting vote.

## **3. Procedures**

- 3.1 Except as provided herein, Council Procedure Rules (as applicable to all Committees) shall apply in all other respects to the conduct of the Committee.
- 3.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

## **4. Meetings**

- 4.1 The Audit Committee will meet at least four times a year.
- 4.2 Meetings will generally take place in the spring, summer, autumn, and winter. The Chair of the Committee may convene additional meetings as necessary.
- 4.3. The Chief Executive may ask the Committee to convene further meetings to discuss particular issues on which the Committee's advice is sought.

## **5. Reporting**

- 5.1. The Audit Committee will formally report back in writing to the full Council at least annually.

## **6. Responsibilities**

- 6.1. The Audit Committee will advise the Executive on:
- the strategic processes for risk, control and governance and the Statement on Internal Control;
  - the accounting policies and the annual accounts of the organisation, including the process for review of the accounts prior to submission for audit, levels of error identified, and management's letter of representation to the external auditors;
  - the planned activity and results of both internal and external audit;
  - the adequacy of management responses to issues identified by audit activity, including the external auditor's annual letter
  - the Chief Internal Auditor's annual assurance report and the annual report of the External Auditors.
  - assurances relating to the corporate governance requirements for the organisation;
  - (where appropriate) proposals for tendering for either Internal or External Audit services or for purchase of non-audit services from contractors who provide audit services.
- 6.2. The Committee's responsibilities in relation to the annual accounts will include:
- to approve the Council's Statement of Accounts, in accordance with the deadlines set out in the Accounts and Audit Regulations 2003;
  - acting as the Approval of Accounts Committee;
  - to consider any report as necessary from the External Auditor under Statement of Auditing Standard 610;
  - to re-approve the Council's Statement of Accounts following any amendments arising from the external audit, in accordance with the deadlines set out in the Accounts & Audit Regulations 2003.
- 6.3. The Committee's responsibilities in relation to risk management will encompass the oversight of all risk analysis and risk assessment, risk response, and risk monitoring. This includes:
- the establishment of risk management across the organisation, including partnerships;
  - awareness of the Council's risk appetite and tolerance;
  - reviewing the risk portfolio (including IT risks);
  - being appraised of the most significant risks;
  - determining whether management's response to risk and changes in risk are appropriate.
- 6.5. The Council has nominated the Committee to be responsible for the effective scrutiny of the Treasury Management Strategy and policies.

- 6.6. The Council has nominated the Committee to be responsible for the effective scrutiny of anti-fraud arrangements and activities.

## **Standards Committee**

### **Terms of Reference**

#### **Members**

6 voting Councillors

#### **Quorum**

3 Members of the Committee

#### **Political proportionality**

4 Administration members

2 Opposition members

#### **Co-optees**

3 non-voting Independent Persons are invited to attend

### **1. Membership**

- 1.1 The Chair will be appointed by the Full Council at its Annual Meeting. In the absence of the Chair, the members present shall elect a Chair for the meeting from among the members then present, who shall have the second or casting vote. If the Chair subsequently attends the meeting, the person then in the Chair shall vacate it.

### **2. Voting**

- 2.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chair of the Committee shall have a second casting vote.

### **3. Procedures**

- 3.1 Except as provided herein, Council Procedure Rules (as applicable to all Committees) shall apply in all other respects to the conduct of the Committee.
- 3.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

### **4. Meetings**

- 4.1 Meetings will be convened at the request of the Monitoring Officer as required during the Municipal Year.

### **5. Responsibilities**

- 5.1 To promote and maintain high standards of conduct by the Members and Co-opted Members of the Council and church and parent governor representatives.
- 5.2 To assist Members, Co-opted Members and church and parent governor representatives to observe the Members' Code of Conduct.
- 5.3 To advise the Council on the adoption or revision of the Members' Code of Conduct.

- 5.4 To monitor the operation of the Members' Code of Conduct.
- 5.5 To advise and recommend training for Councillors, and co-opted Members and church and parent governor representatives on matters relating to the Members' Code of Conduct.
- 5.6 To periodically review the "arrangements" under Section 28 of the Localism Act 2011 under which allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council has failed to comply with the Council's Code of Conduct are considered, investigated and determined.
- 5.7 To consider reports referred to the Committee by the Monitoring Officer of investigations into alleged breaches of the Council's Code of Conduct for Members.
- 5.8 To discharge all the Council's functions under Section 28 of the Localism Act 2011 in relation to considering, investigating and making a decision on allegations that a Member or co-opted Member of the Council, or of a Committee or Committee of the Council, has failed to comply with the Code of Conduct.
- 5.9 To hear an appeal where a Member is dissatisfied with the decision in respect of a complaint against them.
- 5.10 To consider any applications for dispensations from Councillors and co-opted members to allow them to participate in decisions.
- 5.11 To consider any complaints in respect of Members referred to the Committee under the Council's "Whistleblowing" procedure and determining the action to be taken, if any.
- 5.12 To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

## **Pension Fund Committee**

### **Terms of Reference**

#### **Members**

6 voting Councillors

#### **Quorum**

3 Members of the Committee

#### **Political proportionality**

5 Administration members

1 Opposition member

#### **Co-opted Members**

The Committee may co-opt non-voting independent members, including employee representatives and non-administering authority members, as appropriate

### **1. Membership**

- 1.1 The Chair will be drawn from one of the Administration Councillors; the Vice-Chair will be an Opposition Councillor.
- 1.3 The Committee may co-opt non-voting members, including employee representatives and non-administering authority members, as appropriate.

### **2. Voting**

- 2.1 All Councillors on the Committee shall have voting rights. In the event of an equality of votes, the Chair of the Committee shall have a second casting vote. Where the Chair is not in attendance, the Vice-Chair will take the casting vote.

### **3. Procedures**

- 3.1 Except as provided herein, Council Standing Orders (as applicable to Committees) shall apply at meetings of the Committee. In the event of a conflict between these procedures and any guidance or law then the latter will prevail.
- 3.2 Meetings of the Committee shall be held in public, subject to the provisions for considering exempt items in accordance with sections 100A-D of the Local Government Act 1972 (as amended).

### **4. Meetings**

- 4.1 The Pension Fund Committee will meet at least four times a year.
- 4.2 The Chair of the Committee may convene additional meetings as necessary.
- 4.3 The Chief Executive may ask the Committee to convene further meetings to discuss particular issues on which the Committee's advice is sought.

### **5. Reporting**

- 5.1 The Pension Fund Committee will formally report back in writing to the full Council at least annually.

## **6. Responsibilities**

- 6.1 To exercise on behalf of the Council all of the powers and duties of the Council in relation to its functions as Administering Authority of the London Borough of Hammersmith and Fulham Pension Fund. This includes but is not limited to the following matters:
- a) Reviewing and approving the statutory policies of the Fund including the Governance Compliance Statement, Funding Strategy Statement, Investment Strategy Statement, Pension Administration Strategy, Communications Strategy.
  - b) To determine the arrangements for the appointment of the Fund Actuary, Investment Consultant and any other Advisor that it may be determined appropriate to appoint.
  - c) To agree an annual Internal Audit Plan in respect of the Pension Fund which will include, at least, an annual assurance review of the Pensions Administration service.
  - d) To regularly receive and review a comprehensive Risk Register relating to the activities of the Pension Fund.
  - e) To agree the Business Plan and Annual Budget of the Fund.
  - f) To agree the Pension Fund Annual Report and Financial Statements.
  - g) To determine, approve and regularly monitor the arrangements relating to the provision of all matters relating to Pensions Administration functions and the provision of a Pensions Administration Service to the Pension Fund.
  - h) To receive regular performance monitoring reports, in such form as it determines, in respect of the Pensions Administration Service.
  - i) To review and approve a Reporting Breaches of the Law procedure for the Pension Fund and to regularly receive the Breaches Log.
  - j) To make and review an Admission Policy in relating to the admission of Employers to the Fund and be responsible for determining the admission of Employers to the Fund.
  - k) To agree the investment strategy and strategic asset allocation having regard to the advice of the Investment Consultant.
  - l) To determine the Fund management arrangements, including the appointment and termination of the appointment of Fund Managers.
  - m) To monitor the performance of the Pension Funds appointed Fund Managers.
  - n) To determine the relationship of the Pension Fund with the London Collective Investment Vehicle and to monitor its activity and performance.
  - o) To determine the arrangements for the provision of Additional Voluntary Contributions for Fund members.

- p) To ensure that the Covenants of Employers are thoroughly assessed as required and at least during every Triennial Actuarial Valuation.
- q) To receive, from the Fund Actuary, Actuarial Valuations of the Fund.
- r) To consider and determine a response to any advisory Recommendation received from the Pensions Board.
- s) To receive and consider the External Auditors Annual Plan and Annual Report on the Pension Fund.
- t) To ensure compliance with all relevant statutes, regulations, government guidance and other codes and best practice as applicable to the Local Government Pension Scheme.
- u) To determine such other policies that may be required so as to comply with the requirements of Government or bodies acting on behalf of Government.
- v) To ensure all members of the Committee undertake appropriate, and ongoing, training to fulfil their responsibilities.

## **Pensions Board Terms of Reference**

### **Members**

The Pensions Board shall consist of six members and be constituted as follows:

- Three employer representatives comprising one from an admitted or scheduled body and two nominated by the Council; and
- Three scheme member representatives whether from the Council or an admitted or scheduled body.

The process for selecting non-Council nominated employer members of the Pensions Board is set out in a separate document “Selection of Pensions Board members”.

### **Quorum**

The Pensions Board shall be quorate when three Pensions Board Members are in attendance.

### **Role of the Local Pensions Board**

The role of the local Pensions Board is defined by section 5 of the Public Service Pensions Act 2013 and regulation 106 of the Local Government Pension Scheme (LGPS) Governance Regulations 2013. It is to assist the administering authority (the Council) with:

- Securing compliance with the LGPS Governance regulations and any other legislation relating to the governance and administration of the LGPS.
- Securing compliance with any requirements imposed by the Pensions Regulator in relation to the scheme.
- Ensuring effective and efficient governance and administration of the scheme through recommendations to the Pension Fund Committee.

### **Membership**

#### **Chair of the Board**

The Chair and Vice Chair of the Board will be appointed by members of the Board as the first business at their first meeting.

#### **Substitute Members**

Each Scheme Member representative may agree a nominate substitute at the first meeting who would act in the Board member’s absence.

Each Employer representative is there on behalf of the employer so may be replaced by the nominating body with another individual representing the same employer.

#### **Periods of Office**

Each Board Member shall be appointed for a fixed period of four years.

### **Termination**

Each Board member should endeavour to attend all Board meetings during the year and is required to attend at least two meetings each year. In the event of consistent non-attendance by any Board member, then the membership of that Board member should be reviewed by the other Board members with advice from officers.

Other than by ceasing to be eligible as set out above, a Board member may only be removed from office during a term of appointment by the unanimous agreement of all the other Board members present at the meeting.

A Board member may choose not to continue in their role, and so shall notify the Board accordingly following which the process for a replacement shall start.

### **Board Meetings**

#### **Frequency of meetings**

The Board shall as a minimum meet twice a year, and where possible, should aim to do so four weeks before the Pension Fund Committee meets. Meetings shall take place at a time and place agreed by the Pensions Board on an annual basis.

#### **Voting Rights**

Each Board member will be entitled to vote and where a vote is taken the matter will be decided by a majority of the Board members present and voting but it is expected that the Pensions Board will as far as possible reach a consensus. In the event of an equality of votes, the Chair will have a second and or a casting vote.

#### **Notice and Circulation of Papers**

The papers for each Board meeting shall be circulated to all Board members one calendar week in advance of each meeting. The papers shall be published on the Council's website unless they contain material considered to be exempt or confidential, as defined by the Local Government Act 1972 and subsequently agreed as such by the Board.

#### **Minutes**

Minutes of all non-confidential or non-exempt parts of the Board's meetings shall be recorded and published on the Council's website.

#### **Secretariat Service**

Council officers will provide the Board with the secretariat services required.

### **Role of Advisers**

#### **Access to Council advisers**

The Board may request that one of the Council's advisers attends a Board meeting to provide advice or information to the Board. The request should be submitted to the Monitoring Officer.

#### **Appointment of advisers specifically for the Board**

If the Board requires advice outside that already provided to the Council, then the request should be made to the Pension Fund Committee and Council officers.

## **Budget and Expenses**

### **Budget**

An annual budget will be agreed by the Board for professional advice, training or other purposes if such matters are required and Officers being authorised to incur expenditure to implement the programme.

### **Expenses**

Each Board member may claim, upon production of the relevant receipts, travel expenses directly incurred in the work of the Pensions Board.

### **Additional policies relating to the Board Operations:**

#### **Code of Conduct**

The role of Pensions Board members requires the highest standards of conduct and therefore, all Board members are required to abide by the Pensions Board Code of Conduct.

#### **Conflict of Interests**

The Board is required to always act within these terms of reference. Board members should abide by the separately prepared Conflicts Policy and keep the policy under review.

#### **Knowledge and Understanding**

All Board members are required to have sufficient knowledge and understanding of pensions matters to undertake their roles. Board members are expected to comply with the separate policy on knowledge and understanding and maintain appropriate records.

## **Reporting**

### **Annual report on activity**

The Pensions Board should prepare an annual report on its activities and its compliance with these terms of reference and the associated policies. This report should be addressed to full Council each year, in the first six months of the financial year, reporting on the activities of the Pensions Board for the previous financial year. Such a report will be submitted to the Pension Fund Committee for noting prior to submission to Council.

### **Reporting Recommendations**

If the Pensions Board determines that it wishes to make recommendations to the Pension Fund Committee, such recommendations should be reported to the next meeting of the Pension Fund Committee. The Pension Fund Committee's response to the recommendation will be reported to the next meeting of the Pensions Board.

## **Health and Wellbeing Board Constitution and Terms of Reference**

### **Members**

The Board shall comprise 9 voting members as follows:

- The Deputy Leader
- The Chair and 2 representatives of the H&F Clinical Commissioning Group
- The Cabinet Member for Children and Education
- A Local Healthwatch representative
- The Strategic Director of Independent Living (DASS)
- The Strategic Director of Children’s Services
- The Director of Public Health

Each nominating body will nominate a primary representative and a deputy, both of whom will be permanent appointments. The deputy will have the authority to make decisions in the event that the Board member is unable to attend a meeting.

#### **Quorum**

Four voting members, including one Councillor

#### **Co-opted Members**

The Board may appoint additional persons to the Board

### **1. Constitution**

- 1.1 The Health and Social Care Act 2012 requires that every relevant local authority establishes a Health and Wellbeing Board (HWB). The Act establishes and treats Health and Wellbeing Boards as though they are Committees appointed by the Council in accordance with the Local Government Act 1972.
- 1.2 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 disapply certain provisions of local government law from HWBs. This enables non-Councillor members to vote alongside the Councillor members unless the Council directs otherwise and disapplies the requirement to impose a political balance in relation to seats on the Board.

### **2. Voting**

- 2.1 The Board will seek to work by consensus. Where consensus cannot be reached, all members of the Board have voting rights unless the Council (following consultation with the Board) decides otherwise. In the event of an equality of votes the Chair shall have the casting vote.

### **3. Chair**

- 3.1 The Chair shall be appointed by the Full Council. Members shall elect a Vice-Chair from among the Board’s membership.

### **4. Procedures**

- 4.1 The Board will meet at least 4 times during each municipal year.

- 4.2 Council Standing Orders (as applicable to Committees) shall apply at meetings of the Board. In the event of a conflict between these procedures and any guidance or law then the latter will prevail.

## **5. Terms of Reference**

- 5.1 In accordance with the statutory duties and powers given to the HWB by the Health and Social Care Act 2012, the terms of reference of the Board are as follows:
- a) To provide organisational leadership by agreeing the vision and strategic priorities for health and wellbeing in Hammersmith & Fulham, as part of the Joint Health & Wellbeing Strategy.
  - b) To ensure commissioning decisions are based on clear evidence for improving outcomes and integrating services.
  - c) To drive the development and implementation of the Joint Health & Wellbeing Strategy (JHWS) and take joint action to facilitate progress.
  - d) To oversee the development and use of the Joint Strategic Needs Assessment (JSNA) by the Council and H&F Clinical Commissioning Group.
  - e) To oversee the development and maintenance of the Pharmaceutical Needs Assessment (PNA).
  - f) To ensure effective public and patient engagement and involvement in the development and provision of health and wellbeing services.

## **Wormwood Scrubs Charitable Trust Committee Constitution and Terms of Reference**

### **Members**

3 voting Councillors

### **Quorum**

2 Members of the Committee

### **Political proportionality**

2 Administration members

1 Opposition member

### **Co-opted Members:**

The Committee may co-opt non-voting independent members as appropriate

## **1. Constitution**

- 1.1 The Wormwood Scrubs Charitable Trust Committee has been constituted by the Council to discharge the Council's role as Corporate Trustee for the Wormwood Scrubs Charitable Trust.

## **2. Membership**

- 2.1 The membership will be three Councillors and any co-opted members the Committee appoints.

## **3. Voting**

- 3.1 In the event of an equality of votes the Chair shall have the casting vote.

## **4. Decision Making Powers**

- 4.1 To discharge the Council's role as Corporate Trustee for the Wormwood Scrubs Charitable Trust, in line with Charities Commission guidance.
- 4.2 To agree the Trust's annual budget and business plan.
- 4.3 To make any decisions regarding income or expenditure on behalf of the Trust
- 4.4 Should a decision be required in the period between Committee meetings, the Director responsible for Wormwood Scrubs is authorised to make any decision with a financial consequence of up to £20,000.
- 4.5 As an appointed Agent of the Trust, the Chair of the Committee is authorised to make any decision with a financial consequence of between £20,000 and £100,000.
- 4.6 Decisions with a financial impact in excess of £100,000 can only be taken by the Committee.
- 4.7 All decisions taken outside of Committee meetings will be circulated to all Committee members and reported to the next meeting of the Committee with details included in a report.
- 4.8 To agree the Trust's annual accounts.

- 4.9 To receive and respond to the audit findings relating to the annual accounts.
- 4.10 To receive reports on the effective day to day management and financial performance of the Trust.
- 4.11 To allow interested parties to give their view on the performance and direction of the Trust.

## **Policy and Oversight Board**

### **Terms of Reference**

**Members:**

8 voting Councillors

**Quorum:**

3 Members of the Committee

**Political proportionality:**

7 Administration Members

1 Opposition Member

**Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007, and in particular:

- The coordination, and development of the Council's Policy and Scrutiny function and the monitoring of its performance.
- To develop policy and make recommendations to the Cabinet.
- Monitor the administration and spending of Council services.
- To review the impact of decisions and policies implemented by the Council.
- Scrutinising the relevant Cabinet Member(s).

**Scope:**

- Creation and monitoring of new policy development via the Policy and Accountability Committees
- Considering the corporate budget.
- Development of long-term savings plans within the Medium-Term Financial Strategy.
- Oversight of finance and use of resources.
- Performance management (including external assessment of the Authority and its services).
- Managed and shared services and other joint working with outside bodies.
- Electoral and other registration services.
- The Council's communication strategy.
- Procurement and management of IT services.
- The development, implementation and operation of the governance, structure and processes in respect of joint working with other authorities, save for matters within specific service areas which fall within the remit of the PACs.
- Research, innovation, and the Council's continuous improvement and cultural change agenda.
- All human resources and organisation development functions.
- The Council's customer care and complaints services.
- Corporate Programmes and assurance.
- Other major cross-cutting functions of the Council.

## **Children and Education Policy and Accountability Committee Terms of Reference**

### **Members**

5 voting Councillors

### **Political proportionality**

4 Administration Members

1 Opposition Member

### **Quorum**

3 Members of the Committee

### **Co-opted Members**

#### **Statutory with voting rights on education matters**

2 Parent Governor representatives

2 Diocesan representatives

#### **Non-statutory without voting rights**

1 teacher representative

Up to 2 additional co-opted members

### **Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Members(s).

### **Scope**

- The education of children and young people in the borough
- The authority's functions in its capacity as education authority
- Services for children and young people with special educational needs and disabilities
- The authority's social services functions as they relate to children
- Safeguarding
- Child protection
- Children in care
- Children and young people leaving care
- The education and children's services budgets including social care
- Any other matter allocated by the Policy and Oversight Board.

## **Climate Change and Ecology Policy and Accountability Committee**

### **Terms of Reference**

**Members:**

5 voting Councillors

**Quorum:**

3 Members of the Committee

**Political proportionality:**

4 Administration Members

1 Opposition Member

**Co-opted Members:**

Up to 5 non-voting members

#### **Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007 and Sustainable Communities Act 2007, which provides the principal statutory powers by means of which local authorities are currently engaged directly in helping to tackle climate change.

- To discharge of functions contained in s.9FH of Schedule 2 to the Localism Act 2011 to review and scrutinise the exercise by flood risk management authorities of flood risk management functions which may affect the local authority's area
- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Member(s)

#### **Scope:**

- Climate Change and the response to the Climate Emergency
- Transport, including roads maintenance, other transport infrastructure
- Parking policy, traffic management and the relationship with TfL
- Planning policy and performance and the impact of developments on transport infrastructure and the environment
- Recycling and environmental sustainability
- Waste-disposal, refuse collection, and street cleansing
- Ecology and Biodiversity
- Any other matter allocated by the Policy and Overview Board.

*Note: Planning decisions cannot be scrutinised*

## **Health and Adult Social Care Policy and Accountability Committee**

### **Terms of Reference**

#### **Members**

5 voting Councillors

#### **Quorum**

3 Members of the Committee

#### **Political proportionality**

4 Administration Members

1 Opposition Member

#### **Co-opted Members**

Up to 5 non-voting members

#### **Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007, in particular:

- To discharge functions under the Health and Social Care Act 2001
- To discharge any functions under the Health and Social Care Act 2012 and any subsequent regulations
- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Members(s).

#### **Scope:**

- Health of both children and adults (including public health).
- The provision, maintenance and improvement of primary and acute NHS services in the borough.
- The provision of mental health services in the borough.
- Adult social care services in the borough, including the exercise of statutory responsibilities in relation to the scrutiny of health as set out in Article 6 and also the voluntary and community sector.
- Health and Adult Social Care commissioning services.
- Any other matter allocated by the Policy and Overview Board.

## **Housing and Homelessness Policy and Accountability Committee**

### **Terms of Reference**

#### **Members**

5 voting Councillors

#### **Quorum**

3 Members of the Committee

#### **Political proportionality**

4 Administration Members

1 Opposition Member

#### **Co-opted Members**

Up to 5 non-voting members

#### **Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Members(s).

#### **Scope**

To monitor the policy, administration and spending of all aspects of:

- Housing (including privately owned, council, housing association, sheltered and supported housing)
- Provision of homes for local residents
- Tackling and reducing homelessness
- Any other matter allocated by the Policy and Overview Board.

## **Social Inclusion and Community Safety Policy and Accountability Committee Terms of Reference**

**Members:**

5 voting Councillors

**Quorum:**

3 Members of the Committee

**Political proportionality:**

4 Administration Members

1 Opposition Member

**Co-opted Members:**

Up to 5 non-voting members

**Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

- To discharge of the functions and responsibilities of a Crime and Disorder Committee in accordance with section 19 of the Police and Justice Act 2006 and regulations made under section 20 of the Act.
- To improve the terms of participation in society, particularly for people who are disadvantaged, through enhancing opportunities, access to resources, voice and respect for rights.
- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Member(s)

**Scope:**

- Improving Social Inclusion
- Enhancing the quality of life of residents
- Community safety and tackling anti-social behaviour
- Licensing and gambling.
- Neighbourhood governance
- Community engagement, consultation and empowerment activities
- The Council's equalities and diversity programmes and support for vulnerable groups.
- The Council's Voluntary Sector strategy
- Increasing access to opportunity in all aspects of social and economic life in the borough
- Other policies and initiatives supporting social inclusion in the borough
- Any other matter allocated by the Policy and Overview Board.

## **The Economy, Arts, Sports, and Public Realm Policy and Accountability Committee Terms of Reference**

### **Members**

5 voting Councillors

### **Quorum**

3 Members of the Committee

### **Political proportionality**

4 Administration Members

1 Opposition Member

### **Co-opted Members**

Up to 5 non-voting members

### **Principal Functions**

All the powers of an Overview and Scrutiny Committee as set out in section 21 of the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

- To develop policy within the scope of the Committee and make recommendations to the Cabinet
- Monitor the administration and spending in services within its scope
- To review the impact of decisions and policies implemented by the Council
- Lead responsibility for scrutinising the relevant Cabinet Members(s).

### **Scope**

To monitor the policy, administration and spending of all aspects of:

- The local economy
- Support for local businesses and high streets, including the ability of local businesses and the voluntary and community sector to procure from the Council and the Council's suppliers
- Local employment opportunities
- Public sports facilities
- Regeneration and renewal of deprived areas
- Arts and cultural services
- Adult education
- Libraries
- The local environment, parks and open spaces
- Street Scene
- Cemeteries
- Enhancing the quality of life of residents
- Any other matter allocated by the Policy and Overview Board.

**West London Economic Prosperity Board**  
**Joint Committee of the Boroughs of Barnet, Brent, Ealing,**  
**Hammersmith & Fulham, Harrow, and Hounslow**

**Functions and Procedure Rules**

**1. Purpose of the Joint Committee**

- 1.1 The London Boroughs of Barnet, Brent, Ealing, Hammersmith and Fulham, Harrow and Hounslow (“the Participating Boroughs”) have established the Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000, and under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
- 1.2 The Joint Committee shall be known as ‘West London Economic Prosperity Board.’
- 1.3 The Joint Committee’s role and purpose on behalf of the Participating Boroughs relates to ensuring appropriate, effective and formal governance is in place for the purposes of delivering the West London Vision for Growth and advancing Participating Boroughs’ aspirations for greater economic prosperity in West London, including promoting “the Economic Prosperity Agenda”, in partnership with employers, representatives from regional and central government, and education and skills providers.
- 1.4 The purpose of the Joint Committee will be collaboration and mutual co-operation and the fact that some functions will be discharged jointly by way of the Joint Committee does not prohibit any of the Participating Boroughs from promoting economic wellbeing in their own areas independently from the Joint Committee.
- 1.5 The Joint Committee is not a self-standing legal entity but is part of its constituent authorities. Any legal commitment entered into pursuant of a decision of the Joint Committee must be made by all of the Participating Boroughs.
- 1.6 These Procedure Rules govern the conduct of meetings of the Joint Committee.

**2. Definitions**

- 2.1 Any reference to “Access to Information legislation” shall mean Part V and VA of the Local Government Act 1972 (as amended) and, to the extent that they are applicable, to the Openness of Local Government Bodies Regulations 2014 (as amended) and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended).

- 2.2 Any reference to “executive”, “executive arrangements”, “executive function” or “committee system” has the meaning given by Part 1A of the Local Government Act 2000.

### **3. Functions**

- 3.1 The Joint Committee will discharge on behalf of the Participating Boroughs the functions listed below related to promoting economic prosperity in West London:
- 3.1.1 Making funding applications and/or bids to external bodies, in relation to economic prosperity for the benefit of the local government areas of the participating local authorities.
  - 3.1.2 Allocating any such funding awards to appropriate projects for the benefit of the local government areas of the participating local authorities, including, where applicable, approving joint procurement.
  - 3.1.3 Seeking to be the recipient of devolved powers and/or funding streams for the local government areas of the participating local authorities, which relate to the economic prosperity agenda.
  - 3.1.4 Exercising any such powers and allocating any such funding.
  - 3.1.5 Representing the participating local authorities in discussions and negotiations with regional bodies, national bodies and central government on matters relating to economic prosperity for the benefit of the local government areas of the participating authorities.
  - 3.1.6 Representing the participating authorities in connection with the Greater London Authority, London Councils and the London Enterprise Panel, for the benefit of the local government areas of the participating authorities, in matters relating to the economic prosperity agenda.
  - 3.1.7 Representing the participating local authorities in discussions and negotiations in relation to pan-London matters relating to economic prosperity.
  - 3.1.8 Seeking to influence and align government investment in West London in order to boost economic growth within the local government areas of the participating authorities.
  - 3.1.9 Agreeing and approving any additional governance structures as related to the Joint Committee, or any sub-committees formed by the Joint Committee.
  - 3.1.10 Representing the participating local authorities in discussions and negotiations with the Secretary of State for Communities and Local Government to encourage legislative reform enabling Economic Prosperity Boards, as defined by the Local Democracy, Economic

Development and Construction Act 2009 Act, to be established by groups of boroughs in London.

3.1.11 Inviting special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, higher education sector, schools, voluntary sector, and health sector to take an interest in, and/or seek to influence, the business of the committee including by attending meetings and commenting on proposals and documents.

3.2 In relation to the Participating Boroughs which operate executive arrangements only executive functions of each borough may be exercised.

#### **4. Membership**

4.1 The membership will comprise of 6 members with each Participating Borough appointing one person to sit on the Joint Committee as a voting member.

4.2 Each Participating Borough will make a suitable appointment in accordance with its own constitutional requirements.

4.2.1 Where a Participating Borough operates executive arrangements, then the appointment of a voting member of the West London EPB will be by the leaders of the executive or by the executive. It is anticipated that, where practicable, the leader of each such executive will be appointed to the West London EPB.

4.2.2 Where a Participating Borough does not operate executive arrangements, the appointment of a voting member of the West London EPB will be in accordance with the Borough's own procedures. It is envisaged that this will usually be one of its senior councillors.

4.3 In all cases, the appointed person must be an elected member of the council of the appointing Participating Borough. Appointments will be made for a maximum period not extending beyond each member's remaining term of office as a councillor, and their membership of the Joint Committee will automatically cease if they cease to be an elected member of the appointing Participating Borough.

4.4 Members of the Joint Committee are governed by the provisions of their own Council's Codes and Protocols including the Code of Conduct for Members and the rules on Disclosable Pecuniary Interests.

4.5 Each Participating Borough will utilise existing mechanisms for substitution as laid down in their own Standing Orders. Continuity of attendance is encouraged.

4.6 Where a Participating Borough wishes to withdraw from membership of the Joint Committee this must be indicated in writing to each of the committee members. A six-month notice period must be provided.

4.7 When a new borough wishes to become a Participating Borough then this may be achieved if agreed by a unanimous vote of all the existing Participating Boroughs.

## **5. Chair and Vice-Chair**

5.1 The Chair of the Joint Committee will be appointed for 12 months, and will rotate amongst the Participating Boroughs.

5.2 Unless otherwise unanimously agreed by the Joint Committee, each Participating Borough's appointed person will serve as Chair for 12 months at a time. Where the incumbent Chair ceases to be a member of the Joint Committee, the individual appointed by the relevant borough as a replacement will serve as Chair for the remainder of the 12 months as Chair.

5.3 The Joint Committee will also appoint a Vice-Chair from within its membership on an annual basis to preside in the absence of the Chair. This appointment will also rotate in a similar manner to the Chair.

5.4 At its first meeting, the Committee will draw up the rotas for Chair and Vice-Chair respectively.

5.5 Where neither the Chair nor Vice-Chair are in attendance, the Joint Committee will appoint a Chair to preside over the meeting.

5.6 In the event of any disagreement as the meaning or application of these Rules, the decision of the Chair shall be final.

## **6. Sub-Committees**

6.1 The Joint Committee may establish sub-committees to undertake elements of its work if required.

## **7. Delegation to officers**

7.1 The Joint Committee may delegate specific functions to officers of any of the Participating Boroughs.

7.2 Any such delegation may be subject to the requirement for the officer to consult with or obtain the prior agreement of an officer (or officers) of the other boroughs.

7.3 It may also be subject to the requirement for the officer with delegated authority to consult with the Chair of the Joint Committee and the Leaders of the one or more Participating Boroughs before exercising their delegated authority.

## **8. Administration**

- 8.1 Organisational and clerking support for the Joint Committee, and accommodation for meetings, will be provided by the Participating Borough whose representative is Chair unless otherwise agreed by the Joint Committee. The costs of this will be reimbursed by contributions from the other Participating Boroughs as approved by the Joint Committee.

## **9. Financial matters**

- 9.1 The Joint Committee will not have a pre-allocated budget.
- 9.2 When making a decision which has financial consequences, the Joint Committee will follow the relevant provisions of the Financial Procedure Rules of LB Ealing.

## **10. Agenda management**

- 10.1 Subject to 10.2, all prospective items of business for the Joint Committee shall be agreed by a meeting of the Chief Executives of the Participating Boroughs or their representatives.
- 10.2 It will be the responsibility of each report author to ensure that the impacts on all Participating Boroughs are fairly and accurately represented in the report. They may do this either by consulting with the monitoring officer and chief finance officer of each Participating Borough or by some other appropriate method.
- 10.3 In pursuance of their statutory duties, the monitoring officer and/or the chief financial officer of any of the Participating Boroughs may include an item for consideration on the agenda of a meeting of the Joint Committee, and, may require that an extraordinary meeting be called to consider such items.
- 10.4 Each Participating Borough operating executive arrangements will be responsible for considering whether it is necessary (to comply with Access to Information legislation regarding the publication of agendas including Forward Plan requirements) to treat prospective decisions as 'key decisions' and/or have them included in the Forward Plan. Each Participating Borough operating a committee system will apply its local non-statutory procedures.

## **11. Meetings**

- 11.1 The Joint Committee will meet as required to fulfil its functions.
- 11.2 A programme of meetings at the start of each Municipal Year will be scheduled and included in the Calendar of Meetings for all Participating Boroughs.
- 11.3 The quorum for a meeting of the Joint Committee shall require at least 4 of the 5 appointed members (or their substitutes) to be present to transact the business as advertised on the agenda.

- 11.4 Access to meetings and papers of the Joint Committee by the Press and Public is subject to the Local Government Act 1972 and to the Openness of Local Government Bodies Regulations 2014. The Joint Committee will also have regard to the Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012, notwithstanding the fact that its provisions do not strictly apply to the Joint Committee for so long as the committee has any members who are not members of an executive of a Participating Borough.

## **12. Notice of meetings**

- 12.1 On behalf of the Joint Committee, a clerk will give notice to the public of the time and place of any meeting in accordance with the Access to Information requirements.
- 12.2 At least five clear working days in advance of a meeting a clerk to the Joint Committee will publish the agenda via the website of clerk's authority and provide the documentation and website link to the Participating Boroughs to enable the information to be published on each Participating Borough's website. "Five Clear Days" does not include weekends or national holidays and excludes both the day of the meeting and the day on which the meeting is called.
- 12.3 The clerk to the Joint Committee will arrange for the copying and distribution of papers to all Members of the Committee.

## **13. Public participation**

- 13.1 Unless considering information classified as 'exempt' or 'confidential' under Access to Information Legislation, all meetings of the Joint Committee shall be held in public.
- 13.2 Public representations and questions are permitted at meetings of the Joint Committee. Notification must be given in advance of the meeting indicating by 12 noon on the last working day before the meeting the matter to be raised and the agenda item to which it relates. Representatives will be provided with a maximum of 3 minutes to address the Joint Committee.
- 13.3 The maximum number of speakers allowed per agenda item is 6.
- 13.4 Where the number of public representations exceed the time / number allowed, a written response will be provided, or the representation deferred to the next meeting of the Joint Committee if appropriate.
- 13.5 The Joint Committee may also invite special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, voluntary sector, and health sector to take an interest in the business of the committee including by attending meetings and commenting on proposals and documents.

13.6 The Chair shall have discretion to regulate the behaviour of all individuals present at the meeting in the interests of the efficient conduct of the meeting.

#### **14. Member participation**

14.1 Any elected member of the council of any of the Participating Boroughs who is not a member of the Joint Committee may ask a question or address the Committee with the consent of the Chair.

#### **15. Business to be transacted**

15.1 Standing items for each meeting of the Joint Committee will include the following:

- Apologies for absence
- Declarations of Interest
- Minutes of the Last Meeting
- Provision for public participation
- Substantive items for consideration

15.2 The Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements at their discretion. The Chair should inform the Members of the Joint Committee prior to allowing the consideration of urgent items.

15.3 An item of business may not be considered at a meeting unless:

- (i) A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting; or
- (ii) 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.

15.4 “Special Circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at a meeting allowing the proper time for inspection by the public as well as why the item or report could not have been available for inspection for five clear days before the meeting.

#### **16. Extraordinary meetings**

16.1 Arrangements may be made following consultation with Chair of the Joint Committee to call an extraordinary meeting of the Joint Committee. The Chair should inform the appointed Members prior to taking a decision to convene an extraordinary meeting.

16.2 The business of an extraordinary meeting shall be only that specified on the agenda.

#### **17. Cancellation of meetings**

17.1 Meetings of the Joint Committee may, after consultation with the Chair, be cancelled if there is insufficient business to transact or some other appropriate reason warranting cancellation. The date of meetings may be varied after consultation with the Chair and appointed members of the Joint Committee in the event that it is necessary for the efficient transaction of business.

## **18. Rules of debate**

18.1 The rules of debate in operation in the Chair's authority shall apply.

## **19. Request for determination of business**

19.1 Any member of the Joint Committee may request at any time that:

- The Joint Committee move to vote upon the current item of consideration.
- The item be deferred to the next meeting.
- The item be referred back to a meeting of the Chief Executives of the Participating Boroughs for further consideration
- The meeting be adjourned.

19.2 The Joint Committee will then vote on the request.

## **20. Urgency procedure**

20.1 Where the Chair (following consultation with the appointed Members of the Joint Committee) is of the view that an urgent decision is required in respect of any matter within the Joint Committee's functions and that decision would not reasonably require the calling of an Extraordinary Meeting of the Joint Committee to consider it and it cannot wait until the next Ordinary Meeting of the Joint Committee, then they may request in writing the Chief Executive of each Participating Borough (in line with pre-existing delegations in each Borough's Constitution) to take urgent action as is required within each of the constituent boroughs.

## **21. Voting**

21.1 The Joint Committee's decision making will operate on the basis of mutual cooperation and consent and will take into account the views of the special representatives. It is expected that decisions will be taken on a consensual basis wherever reasonably possible.

21.2 Where a vote is required it will be on the basis of one vote per member and unless a recorded vote is requested, the Chair will take the vote by show of hands.

21.3 Any matter (save for a decision under Rule 4.7 above) shall be decided by a simple majority of those members voting and present. Where there is an equality of votes, the Chair of the meeting shall have a second and casting vote.

- 21.4 Any two members can request that a recorded vote be taken.
- 21.5 Where, immediately after a vote is taken at a meeting, if any Member so requests, there shall be recorded in the minutes of the proceedings of that meeting whether the person cast their vote for or against the matter or whether they abstained from voting.

## **22. Minutes**

- 22.1 At the next suitable meeting of the Joint Committee, the Chair will move a motion that the minutes of the previous meeting be agreed as a correct record. The meeting may only consider the accuracy of the minutes and cannot change or vary decisions taken at a previous meeting as a matter arising out of the minutes.
- 22.2 Once agreed, the Chair will sign them.
- 22.3 There will be no item for the approval of minutes of an ordinary Joint Committee meeting on the agenda of an extraordinary meeting.

## **23. Exclusion of Public and Press**

- 23.1 Members of the public and press may only be excluded from a meeting of the Joint Committee either in accordance with the Access to Information requirements or in the event of disturbance.
- 23.2 A motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings. The motion shall specify by reference to Section 100(A) Local Government Act 1972 the reason for the exclusion in relation to each item of business for which it is proposed that the public be excluded. The public must be excluded from meetings whenever it is likely, in view of the nature of business to be transacted, or the nature of the proceedings that confidential information would be disclosed.
- 23.3 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think is necessary.
- 23.4 Background papers will be published as part of the Joint Committee agenda and be made available to the public via the website of each authority.

## **24. Overview and Scrutiny**

- 24.1 Decisions of the Joint Committee which relate to the executive functions of a Participating Borough will be subject to scrutiny and 'call -in' arrangements (or such other arrangements equivalent to call-in that any Participating Borough operating a committee system may have) as would apply locally to a decision made by that Participating Borough acting alone
- 24.2 No decision should be implemented until such time as the call-in period has expired across all of the Participating Boroughs.

24.3 Where a decision is called in, arrangements will be made at the earliest opportunity within the Participating Borough where the Call-In had taken place for it to be heard.

24.4 Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call-in procedures of the Participating Borough concerned have been concluded.

## **25. Access to minutes and papers after the meeting**

25.1 On behalf of the Joint Committee, a clerk will make available copies of the following for six years after the meeting:

- (i) the minutes of the meeting and records of decisions taken, together with reasons, for all meetings of the Joint Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
- (ii) the agenda for the meeting; and
- (iii) reports relating to items when the meeting was open to the public.

## **26. Amendment of these Rules**

26.1 These Rules shall be agreed by the Joint Committee at its first meeting. Any amendments shall be made by the Joint Committee following consultation with the monitoring officers of the Participating Boroughs. Note that Rule 3 (Functions) may only be amended following a formal delegation from each of the Participating Boroughs.

## **27. Background Papers**

27.1 Every report shall contain a list of those documents relating to the subject matter of the report which in the opinion of the author:

- (i) disclose any facts or matters on which the report or an important part of it is based;
- (ii) 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 and in respect of reports to the Joint Committee, the advice of a political assistant.

27.2 Where a copy of a report for a meeting is made available for inspection by the public at the same time the clerk shall make available for inspection

- (i) a copy of the list of background papers for the report
- (ii) at least one copy of each of the documents included in that list.

27.3 The Clerk 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.

# **North West London Joint Health Overview and Scrutiny Committee**

## **Terms of Reference**

### **Membership**

One nominated voting member from each Council participating in the North West London Joint Health Overview and Scrutiny Committee plus one alternate member who can vote in the voting member's absence. In addition, one non-voting co-opted member of the London Borough of Richmond. The committee will require at least six voting members in attendance to be quorate. The North West London Joint Health Overview and Scrutiny Committee will elect its own Chair and Vice Chair. Elections will take place on an annual basis each May, or as soon as practical thereafter, to allow for any annual changes to the committee's membership.

### **Terms of Reference**

1. To scrutinise the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; in particular the implementation plans and actions by the North West Integrated Care System and their Integrated Care Board, focusing on aspects affecting the whole of North West London. Taking a wider view than might normally be taken by individual local authorities.
2. To review and scrutinise decisions made, or actions taken by North West London Integrated Care System, their Integrated Care Board and/or other NHS service providers, in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London, where appropriate.
3. To make recommendations to North West London Integrated Care System and its Integrated Care Board, NHS England, or any other appropriate outside body in relation to the plans for meeting the health needs of the population and arranging for the provision of health services in North West London; and to monitor the outcomes of these recommendations where appropriate.
4. To require the provision of information from, and attendance before the committee by, any such person or organisation under a statutory duty to comply with the scrutiny function of health services in North West London. Individual local authority members of the North West London Joint Health Overview and Scrutiny Committee will continue their own scrutiny of health services in, or affecting, their individual areas (including those under the for North West London).
5. Participation in the Joint Health Overview and Scrutiny Committee will not preclude any scrutiny or right of response by individual boroughs. In particular, and for the sake of clarity, this joint committee is not appointed for and nor does it have delegated to it any of the functions or powers of the local

authorities, either individually or jointly, under Section 23 of the local authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

### **Duration**

The Joint Health Overview and Scrutiny Committee will continue until all participating authorities decide otherwise and does not preclude individual authorities from leaving the Committee if they choose to do so. The Committee will keep under review whether it has fulfilled its remit and recommendations of the Committee will be reported to a Full Council meeting of each participating authority, at the earliest opportunity.

## Committee Memberships 2023/24

### 1. Planning and Development Control Committee (6:2)

Administration Councillors	Opposition Councillors
Omid Miri (Chair)	Alex Karmel
Florian Chevoppe-Verdier (Vice-Chair)	Adrian Pascu-Tulbure
Wesley Harcourt	
Rebecca Harvey	
Nikos Souslous	
Patrick Walsh	

### 2. Licensing Committee (9:3)

Administration Councillors	Opposition Councillors
Mercy Umeh (Chair)	Jose Alfonso
Paul Alexander (Vice-Chair)	Aliya Afzal-Khan
Asif Siddique	Dominic Stanton
Zarar Qayyum	
Genevieve Nwaogbe	
Bora Kwon	
Wesley Harcourt	
Florian Chevoppe-Verdier	
Patrick Walsh	

#### 2.1 Licensing Sub-Committee (2:1)

Members for the above must be drawn from the full membership of the Licensing Committee.

### 3. Appointments Panels (H&F – 4:1, Chief Exec – 9:3)

The membership requirements for the appointment panels are detailed in Part 3 of the Constitution.

### 4. Audit Committee (4:1)

Administration Councillors	Opposition Councillors
Patrick Walsh (Chair)	Adrian Pascu-Tulbure
Paul Alexander	
Florian Chevoppe-Verdier	
Ashok Patel	

**5. Pension Fund Committee (4:1)**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Ross Melton (Chair)	Adrian Pascu-Tulbure
Adam Lang	
Laura Janes	
Florian Chevoppe-Verdier	

Non-voting Co-opted members: Mike Adam and Iain Cassidy

**6. Standards Committee (4:1)**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Rebecca Harvey	Victoria Brocklebank-Fowler
Helen Rowbottom	
Rowan Ree	
Rory Vaughan	

Independent Persons: His Honour John Rylance, Dr Tom Babbedge and Ms Dilina Ostborn

**7. Pensions Board**

<b>Administration Councillors</b>
Ashok Patel (Chair)
Nikos Soslous

**8. Health and Wellbeing Board**

<b>Administration Councillors</b>
Ben Coleman, Deputy Leader (Chair)
Natalia Perez, Chair of Health and Adult Social Care PAC (Deputy)
Alexandra Sanderson, Cabinet Member for Children and Education
Helen Rowbottom, Chair of Children and Education PAC (Deputy)

**9. Wormwood Scrubs Charitable Trust Committee (2:1)**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Alexandra Sanderson (Chair)	Dominic Stanton
Bora Kwon	

## Policy and Accountability Committee Memberships

### 1. Policy and Oversight Board (7:1)

Administration Councillors	Opposition Councillors
Lisa Homan (Chair)	Victoria Brocklebank-Fowler
Helen Rowbottom	
Nikos Souslous	
Rory Vaughan	
Nicole Trehy	
Natalia Perez	
Jacolyn Daly	

### 2. Children and Education Policy and Accountability Committee (4:1)

Administration Councillors	Opposition Councillors
Helen Rowbottom (Chair)	Aliya Afzal-Khan
Daryl Brown	
Mercy Umeh	
Lucy Richardson	

### 3. Social Inclusion and Community Safety Policy and Accountability Committee (4:1)

Administration Councillors	Opposition Councillors
Nikos Souslous (Chair)	Andrew Dinsmore
Omid Miri	
Trey Campbell-Simon	
Sally Taylor	

### 4. The Economy, Arts, Sports & Public Realm Policy and Accountability Committee (4:1)

Administration Councillors	Opposition Councillors
Rory Vaughan (Chair)	Jackie Borland
Liz Collins	
Adam Lang	
Ashok Patel	

### 5. Climate Change & Ecology Policy and Accountability Committee (4:1)

Administration Councillors	Opposition Councillors
Nicole Trehy (Chair)	Jose Alfonso
Ross Melton	

Laura Janes	
Stala Antoniadis	

**6. Health and Adult Social Care Policy and Accountability Committee (4:1)**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Natalia Perez (Chair)	Amanda Lloyd-Harris
Genevieve Nwoagbe	
Emma Apthorp	
Ann Rosenberg	

**7. Housing and Homelessness Policy and Accountability Committee (4:1)**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Jacolyn Daly (Chair)	Adronie Alford
Asif Siddique	
Sally Taylor	
Paul Alexander	

**Joint Committees**

**8. North West London Joint Health Overview & Scrutiny Committee**

<b>Administration Councillors</b>
Natalia Perez (voting member)
Sharon Holder (substitute member)

**Advisory Bodies**

*Note: Advisory bodies have no legal decision-making powers.*

**9. Corporate Parenting Board**

<b>Administration Councillors</b>	<b>Opposition Councillors</b>
Alexandra Sanderson (Chair)	Aliya Afzal-Khan
Helen Rowbottom	
Rebecca Harvey	

## **Scheme of Delegation to Officers**

### **1. Powers of Delegation**

- 1.1 The Council has made the following arrangements for the discharge of executive and non-executive functions under the Local Government Act 1972 and the Local Government Act 2000.
- 1.2 This Scheme of Delegation also applies to officers operating within Shared Services which are governed by agreements under s113 of the Local Government Act 1972.

### **2. General Principles of Delegation**

- 2.1 All delegated powers are exercised in accordance with Council policies, within any financial limits imposed and within any guidelines prescribed in this Constitution or by the Council, Cabinet or appropriate committee.
- 2.2 Each officer shall exercise all powers subject to the Council's Constitution, Executive Arrangements and Scheme of Delegations, Contract Standing Orders and Financial Regulations, as appropriate.
- 2.3 The executive powers, duties and functions of the Executive (Cabinet) Members, Committees, or officers shall be exercised on behalf of the Leader.
- 2.4 Cabinet Members may delegate, in writing, functions in their portfolios to officers.
- 2.5 Any matter that does not fall within the definition of a Key Decision under this Constitution is delegated to either the relevant Cabinet Member or an officer of the Authority. Where an officer has delegated authority it may still be appropriate for the officer to consult with the relevant Cabinet Member prior to taking the decision.
- 2.6 All Chief Officers are authorised to make arrangements for the proper administration of the functions falling within their responsibility. A Chief Officer may authorise officers within their department to exercise any of their delegated powers.
- 2.7 Cabinet Members or Committees may reserve to themselves decisions that have been delegated to officers by giving notice to the Chief Executive, the Monitoring Officer and the relevant Chief Officer.
- 2.8 Where any new power or duty is given to the Council, the exercise of that power or duty will be undertaken by the relevant Chief Officer until such time as the allocation of responsibility has been determined by the Leader or the Council.

2.9 In all cases where the exercise of executive functions is not specifically reserved to the Executive, those functions are deemed to be delegated to the Chief Executive and the Chief Officer with responsibility for the relevant function as set out in this chapter of the Constitution and the departmental register of authorities.

### **3. Limitations and Conditions of Delegation**

3.1 Where revenue expenditure will be incurred or new sources of revenue secured, (including grants, loans, investments and management of Council funds), any officer exercising their delegated power must do so in accordance with approved revenue estimates and following consultation with either the Cabinet Member, Cabinet or Leader.

3.2 Officers shall not exercise delegated powers where any capital expenditure will be incurred other than in accordance with Financial Regulations or where that authority may be given for the incurring of expenditure on preliminary action or appraisals, or design work where expenditure will:

- (a) be treated as capital expenditure, and
- (b) the scheme appears in the approved capital programme.

3.3 Officers shall not exercise any powers to contract or issue orders for goods, materials or services (including for maintenance or repair work to Council premises), except in accordance with the Council's Contract Standing Orders and Financial Regulations.

3.4 An officer to whom power is delegated may decline to exercise their powers in a particular case and shall in such instances refer the matter to either the Leader, the Cabinet, relevant Cabinet Member or the Full Council as appropriate in order that a decision may be made.

3.5 Where officers are taking decisions under delegated powers, the following principles and conditions shall apply.

- (a) The officer exercising such powers shall take into account the principles set out in, Part 2 Article 12 (Decision Making), the Budget and Policy Framework and any other relevant policies, procedures or previous decisions.
- (b) All decisions shall be taken in the name of, but not necessarily personally by, the officer(s) to whom the power is delegated. The officer with the delegated power may authorise another officer to act on their behalf, any such authority must be in writing. The officer with the delegated power shall remain accountable for the exercise of that power.
- (c) In any case where the officer exercising the power considers that a departure from existing policy or a significant change in financial practice is likely to be involved or, in the case of an executive decision, is contrary to or not wholly in accordance with the Budget and Policy

Framework, they shall consult the relevant Chief Officer and the Chief Executive or Cabinet Member, as appropriate, who shall refer the matter to the appropriate decision maker(s).

- (d) Where officers consider that a decision which they have taken under delegated authority is particularly significant to the Council, they shall report the decision to the relevant Cabinet Member/the Cabinet for information. The decision must also be recorded in the council's central register which records all decisions as specified in Regulation 7 of the Openness of Local Government Bodies Regulations 2014.
- (e) The Chief Executive as Head of the Council's paid service shall monitor the exercise of delegated powers, other than statutory functions, for which Chief Officers have responsibility. The Chief Executive may require any officer to cease the exercise of such powers pending a report to the next meeting of the Cabinet.

3.6 Routine service decisions on matters which fall within their departmental / service group remit which are not otherwise covered by this Scheme may be taken by the relevant Chief Officer provided that this is done in accordance with paragraph 6 – Routine Service Decisions of the General Functions Delegated to the Chief Executive and all Chief Officers set out below.

- (a) In relation to the day to day conduct of decision making by the Council, the ruling of the Monitoring Officer on questions relating to this Scheme shall be final.
- (b) The exercise of functions by Executive Members, Committees and officers shall be subject to the provisions of the Local Government Act 1972, the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007, and any subsequent amendments, supporting or new legislation.

3.7 Subject to the above constraints and limitations, officers may exercise all powers within their respective areas of responsibility, and the absence of a specific delegation to an officer shall not be taken as implying an absence of authorisation to act.

#### **4. Conflicts of Interest**

4.1 Every officer is responsible for identifying whether they have any conflict of interest in any matter which is under consideration and if they do, to notify the Head of Paid Service or Monitoring Officer.

4.2 Where an officer has a conflict of interest in any matter, they shall not participate in that matter in their capacity as an officer except with the prior approval of their line manager, the Monitoring Officer or the Chief Executive.

4.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by a Chief Officer.

- 4.4 Where a Chief Officer is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter themselves or allocate the matter to another officer.
- 4.5 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the officer designated by the Monitoring Officer as Deputy Monitoring Officer.
- 4.6 Where the Monitoring Officer is unable to act on a matter in relation to Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose.
- 4.7 Where any other officer is unable to act on a matter, that officer's line manager or the Chief Executive may arrange for another officer to discharge the matter.

## **General functions delegated to the Chief Executive and Chief Officers**

### **1. Introduction**

- 1.1 Under the Council's Constitution, the following common functions are delegated to the Chief Executive and to all Chief Officers. These delegations are in addition to the specific responsibilities that apply in individual service areas, as set out below, and in the separate departmental registers of authority maintained by each department.
- 1.2 Each Chief Officer will have a register of authority within their department. The register of authority will specify which officers within their department have been authorised by them to exercise their delegated powers on their behalf and in their name.

### **2. General**

- 2.1 To manage and promote the services for which they are responsible. This includes taking and implementing decisions which help to maintain the operational effectiveness of the services within their remit and which fall within a policy decision made by the executive or the Council. These above powers are to be exercised:
- (a) having regard to any legal advice from the Assistant Director, Legal Services.
  - (b) in accordance with any instructions or advice given by the Chief Executive or s151 Officer or the Monitoring Officer, statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Cabinet or the Council
  - (c) in accordance with Financial Regulations and the Contract Standing Orders set out in the Constitution; and
  - (d) within any budgets or policies approved by the Council, and not committing the Council's budget to growth for future financial years.
- 2.2 To respond to consultation documents where the response would not amount to a Key Decision.
- 2.3 To enter and inspect premises, and to make applications for warrants. This applies only to the relevant Chief Officers who undertake this duty.
- 2.4 To give factual information to the press.
- 2.5 To enter into arrangements or do anything else which is considered necessary or expedient in respect of functions delegated to them.
- 2.6 To promote services (not policy), ensuring always that publications are compliant with the Council's Publications Guidelines and Code.

- 2.7 To enter into arrangements or do anything else which is considered necessary or expedient in respect of functions delegated to them.

### **3. Financial, Contractual and Grants**

- 3.1 To be responsible for the overall financial management within their services or department and for ensuring that all staff under their responsibility are aware of the existence and content of the Council's Financial Regulations and Contract Standing Orders set out in the Constitution and that they comply with them.
- 3.2 To incur expenditure from approved revenue estimates and capital programmes, including making virements, within the limits and controls set down in the Financial Regulations.
- 3.3 To submit bids for funding to Government departments and other external bodies, and for projects and initiatives within Council policies, subject to any approvals required by the relevant Executive Member(s) or Cabinet and, where bids are successful, to seek subsequent approval of resultant new expenditure commitments.
- 3.4 To authorise payment of revenue grants to voluntary organisations, from within approved budgets, of up to £10,000 per annum to any one organisation where that organisation is already in receipt of approved funding from the Council. The use of this delegated authority is to be reported in summary form to the relevant Cabinet Member for information, on a quarterly basis.
- 3.5 To set the level of fees and charges for services or facilities up to £10,000 total income per annum, with the setting of all such charges being reported on a quarterly basis to the relevant Executive Member for information.
- 3.6 Under section 92 of the Local Government Act 2000, to make payments in settlement of claims where the Council considers that action taken by it (or on its behalf) amounts, or may amount, to maladministration, up to an annual limit of £30,000 per settlement per annum in respect of each Chief Officer.
- 3.7 To exercise the powers conferred on all Chief Officers by Standing Orders, Financial Regulations, the Human Resources Policies and the Contract Standing Orders in relation to debt write offs, seeking tenders for approved projects and schemes, opening tenders, the approval of variations in contracts and the agreement of bids to undertake cross boundary tendering.

### **4. Staffing and Employee Relations**

- 4.1 To appoint, promote and dismiss permanent and temporary staff (save in relation to posts to which appointments are made by the Appointments Panel) within approved budgets and in accordance with the Council's agreed Human Resources Policies.

- 4.2 In accordance with the Council's Human Resources Policies, consulting where appropriate with the Assistant Director, People and Talent, to remunerate, reward or pay honoraria to staff within approved budgets or withhold rewards / increments.
- 4.3 To take disciplinary or other action and exercise the discretionary powers in relation to all staffing matters detailed in the Human Resources Policies.
- 4.4 To consider employees' final appeals in relation to capability, disciplinary and grievance matters, provided the Chief Officer has not taken the decision in question.
- 4.5 To attend or nominate members of their staff to attend conferences and seminars convened by institutional or professional associations and like bodies, and to authorise the payment of proper expenses incurred in respect of such attendance.
- 4.6 To authorise officers of the Council to give evidence on behalf of the Council in Courts or at Inquiries or before Tribunals or Committees.
- 4.7 To undertake, in consultation with the Assistant Director, People and Talent, minor re-organisations of staff structure (directly affecting a maximum of 25 posts) provided no post subject to Member appointment procedures is affected, there is no increase in cost and the relevant Cabinet Member is advised in advance about forthcoming minor re-organisations.
- 4.8 In consultation with the Head of Human Resources on the application of paragraphs 4.8(c), 4.8(d), 4.9, 4.10 and 4.12 below, all Chief Officers are authorised:
  - (a) To authorise acting up arrangements for a period of up to six months.
  - (b) To authorise action under the personal injury allowance scheme.
  - (c) To authorise the waiver of repayment of maternity leave.
  - (d) To authorise overtime working.
  - (e) To appoint consultants where the value of the commission is below £25,000, subject to the requirements of Contract Standing Orders.
  - (f) In line with corporate policies and procedures, to take decisions including contractual matters on the recruitment, appointment, organisation, grading, designation, remuneration, pay, terms and conditions of all staff and employees within the relevant department.
- 4.9 To suspend and/or dismiss any staff within their division, other than those appointed by the Council or Appointments Panel, and subject to the Council's disciplinary procedures.
- 4.10 To conduct negotiations under the Council's collective bargaining arrangements, taking into account joint agreements and the Council's

personnel procedures, with matters in dispute being referred as appropriate through the Council's joint negotiating machinery.

- 4.11 To implement decisions of the Council's joint negotiating committees, subject to financial and other limits incorporated in the Scheme of Delegation and Financial Regulations.
- 4.12 To respond to industrial action, or threatened industrial action, subject to advice where appropriate from the Assistant Director, People and Talent and the Assistant Director, Legal Services.
- 4.13 To approve applications for season tickets loans and car loans for Council employees in accordance with Council policies.

## **5. Legal Proceedings and Property Matters**

- 5.1 To prepare and serve any statutory notices or authorise the Assistant Director, Legal Services to prepare and serve statutory notices in respect of functions delegated to them.
- 5.2 To authorise the commencement of legal proceedings in respect of functions delegated to them.
- 5.3 To issue formal cautions where criminal offences are admitted, following consultation with the Assistant Director, Legal Services.
- 5.4 To use and occupy the premises and estate efficiently.
- 5.5 To take enforcement action including the issuing of fixed penalty notices. This applies only to the relevant Chief Officers who undertake this duty.
- 5.6 To provide instructions to the Assistant Director, Legal Services to enable him/her to authorise the institution of legal proceedings for an offence against or failure to comply with any statutory provision, bye-law or notice, permission, order, authorisation, request or consent, within the Chief Officer's area of responsibility.
- 5.7 To sign any notice, order or other document which the local authority is authorised or required to give or make or issue under any enactment that is either specifically delegated by Council or of a kind falling within the department's area of responsibility (e.g. under Part I and Part II Regulation of Investigatory Powers Act 2000).
- 5.8 To authorise the carrying out of work in default or non-compliance with any statutory provision, bye-laws, notice, permission, order, authorisation, or consent, which is of a kind falling with the Chief Officer's area of responsibility and to exercise the Council's statutory power to recover expenses incurred.

## 6. Information Asset Owner

6.1 Each Director is the Directorate Information Asset Owner. The Information Asset Owner is responsible for:

- understanding and addressing the risks to the information assets they own;
- maintaining records required to be retained in accordance with LBHF’s Retention and Disposal schedule;
- ensuring that records are reviewed in a systematic manner in line with LBHF’s Retention & Disposal schedule, ensuring the destruction process is followed and that records are reviewed and logged before destruction; and
- providing assurance to the SIRO (Senior Information Risk Owner) on the security and use of Information assets.

## 7. Routine Service Decisions

7.1 Subject to the restrictions in 6.2 below, the Chief Executive and Chief Officers are authorised to make all routine and day-to-day operational decisions required in relation to service and activities within their departmental or service group responsibilities.

7.2 Unless specifically stated otherwise in the Constitution, or otherwise approved by the Cabinet, any decisions involving new expenditure (or a future commitment to incur new expenditure) are subject to the following limitations:-  
 (a) for revenue and contract expenditure made by a Chief Officer or Assistant Director:

CAPITAL	Procurement Strategy Approval	Contract Award Approval
Up to the EU threshold for services (currently £181,302)	Not applicable	All Chief Officers (SLT)
Between the EU threshold for services up to £1.5m	CE/SLT in consultation with the relevant Cabinet Member	CE/SLT in consultation with the relevant Cabinet Member

REVENUE	Procurement Strategy Approval	Contract Award Approval
Up to the EU threshold for services (currently £181,302)	Not applicable	CE/SLT
Between the EU threshold for services up to £500,000	CE/SLT in consultation with the relevant Cabinet Member	CE/SLT in consultation with the relevant Cabinet Member

- (b) If the decision is a Key Decision, it must be made in accordance with the rules for taking such decisions set out in, Part 4 (Executive Procedure Rules and Access to Information Procedure Rules) in this Constitution.
- (c) If the decision requires expenditure within the thresholds below it must be taken by the relevant Cabinet Member or Cabinet.

CAPITAL	Procurement Strategy Approval	Contract Award Approval
£1,500,001 to £5m	The relevant Cabinet Member	The relevant Cabinet Member
Over £5m	Cabinet	The relevant Cabinet Member

REVENUE	Procurement Strategy Approval	Contract Award Approval
£500,001 to £5m	The relevant Cabinet Member	The relevant Cabinet Member
Over £5m	Cabinet	The relevant Cabinet Member

7.3 Decisions requiring expenditure may be made by Chief Officers, provided they are met from within overall approved budgets and comply with the Council’s Financial Regulations and Contract Standing Orders.

## **8. Recording, Implementing and Accounting for Decisions**

8.1 Each officer is responsible for ensuring that any decision which they take is adequately recorded, and that the record of that decision is available to other officers, Members and the public as required by statute, particularly if the decision relates to a change in policy or practice, or a financial commitment.

8.2 Every officer is responsible for ensuring that any decision they take is implemented accordingly.

8.3 Every officer is accountable for each decision which they take and may be called to provide an explanation of their reasons for the decision and account for its implementation to other officers, Members and statutory regulators.

## **9. Other Responsibilities**

9.1 All matters not reserved to the Council, to the Executive, or to a Committee for decision are delegated to the appropriate Chief Officers subject to the

conditions and limitations above (including the Contract Standing Orders and the Financial Regulations).

- 9.2 Each Chief Officer or other Proper Officer in making decisions under this scheme is required to do so in accordance with the register of authority for their own directorate. This will include appropriate monitoring arrangements and dissemination of information both internally and externally to the Council.
- 9.3 The areas of responsibility of each Chief Officer shall be as set out below, and shall include the areas of responsibility of each officer within their directorate.

## Responsibilities of the Chief Executive and Chief Officers

### 1. The Chief Executive

#### 1.1 The Chief Executive shall:

- (a) be the Head of the Paid Service in accordance with the Local Government and Housing Act 1989.
- (b) have authority over all other officers so far as is necessary for the efficient management and execution of the Council's affairs, functions or services except:
  - (i) where officers are exercising specific responsibilities imposed on them under statute;
  - (ii) that where the professional judgment or expertise of a Chief Officer is involved the officer shall have full opportunity to explain their views.
- (c) Exercise overall corporate management and operational responsibility, including overall management responsibility for all officers.
- (d) Provide professional advice to all parties in the decision-making process.
- (e) Have responsibility, together with the Monitoring Officer, for a system of record keeping for all the Council's decisions.
- (f) Represent the Council on partnership and external bodies (as required by statute or the Council).
- (g) Manage the Chief Executive's Office.
- (h) Discharge the functions of Electoral Registration Officer and be responsible for elections.
- (i) make decisions on employee terms and conditions, (including procedures for dismissal).
- (j) discharge those functions under Section 138 (1) of the Local Government Act 1972, (powers of principal Councils with respect to emergencies or disasters) as Head of Paid Service (Gold Command) appointed by the London Borough Councils from time to time to respond to an incident requiring a "Level 2" response (single site or wide-area disruptive challenge requiring a co-ordinated response by relevant agencies on behalf of the Councils).
- (h) be responsible for the Council's responsibilities as an employer under Health and Safety legislation.

#### 1.2 The areas of responsibility of the Chief Executive shall include the following departments and functions (in which day-to-day responsibility shall normally be delegated to the appropriate Chief Officer):

- (a) Finance department
- (b) Social Care department

- (c) Children’s Services department
- (d) Resources department
- (e) The Environment department
- (f) The Economy department

## **2. The Strategic Director of Finance**

### **2.1 The Strategic Director of Finance shall:**

- (a) act as the statutory Chief Financial Officer, under section 151 of the Local Government Act 1972.
- (b) be responsible for effective financial administration throughout the Council.
- (c) be responsible for all arrangements concerning financial planning, financial control, banking, accounts, income, insurances, investments, bonds, loans, leasing, borrowing (including methods of borrowing), trust and pension funds (within the scope of the Council’s pension fund investment policies that are approved by the Superannuation Committee), the payment of creditors and the payment of salaries, wages, pension scheme benefits and gratuities.
- (d) Provide leadership, advice and support to Members, SLT Directors, Assistant Directors, and managers across the authority on all procurement, contract management and other commercial matters.
- (e) be responsible for the provisions of the Accounts and Audit Regulations 2003 (as amended) in respect of the need to maintain an adequate and effective system of internal audit of the Council’s accounting records and of its system of internal control in accordance with proper internal audit practices.
- (f) to be responsible for the calculation of Council tax levels as part of Budget setting.
- (g) be the Proper Officer of the Council in relation to the following statutory provisions:

#### **Local Government Act 1972**

- (1) Section 115(2) - the officer to whom all money due from every officer employed by the Council shall be paid.
- (2) Section 146 - the officer to make any statutory declaration in connection with the transfer of securities.

#### **Local Government (Miscellaneous Provisions) Act 1976**

- (3) Section 30 - the officer to write off overpayment of salary, allowances or pensions which occur as a result of the death of an employee or pensioner.

#### **Local Government Finance Act 1988**

- (4) Section 114-115 - the officer responsible for reporting on unlawful expenditure decisions or where expenditure exceeds the resources available.

2.2 The services and the areas of responsibility of the Strategic Director of Finance shall include: Finance, Contract Management and Procurement, Audit, Fraud, Risk management, Insurance, Treasury management, Pensions, Finance systems, BI and PMO, Facilities Management and Zero-Based Budgets.

## **5. Strategic Director of Independent Living (DASS)**

5.1 The Strategic Director of Independent Living (DASS) shall:

- (a) exercise the functions of the Council and act as the statutory officer for adult social services as set out in section 6(A1) of the Local Authority Social Services Act 1970 as amended by section 18(1) of the Children Act 2004.
- (b) exercise the functions of the Council with regard to, powers and duties of an Adult Services Authority under all relevant legislation including, but not limited to social services, safeguarding adults, Mental Health services including the deprivation of liberty and Health functions in particular building and leading the arrangements for inter-agency co-operation.
- (c) arrange for the effective operation of the Council's responsibilities for the assessment, purchase and provision of social care services for adults including people with disabilities, older people, people with mental health needs, people with substance misuse problems, adults with learning disabilities (including people with autistic spectrum disorder and a dual diagnosis incorporating mental health needs and learning disability) and people with HIV/AIDS.
- (d) Be the lead commissioner responsible for relationships with health and social care across the Council with the aim of transforming the current model.
- (e) Provide leadership, advice and support to Members, Executive Directors, Directors and managers across the authority on all commissioning matters.
- (f) Produce Joint Strategic Needs Assessments in conjunction with the Strategic Director of Children's Services and the Director of Public Health.
- (g) Promote health improvement in the borough and participate as a member of the Health and Wellbeing Board for the Borough.
- (h) To lead and oversee Public Health and support the Director of Public Health.

5.2 The services and the areas of responsibility of the Strategic Director of Independent Living (DASS) shall include: Adult Social Care Operations,

Commissioning for adults and children, Public Health, Provider Services and Mental Health Partnership, Finance and Resources

## **6. Strategic Director of Children’s Services**

6.1 The Strategic Director of Children’s Services shall:

- (a) act as the statutory officer under section 18(1) of the Children's Act 2004.
- (b) be responsible for the Council’s functions as set out in the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation.
- (c) be responsible for children in need, child protection, adoption, fostering, education and special educational needs.
- (d) exercise powers of intervention for those schools which are subject to a formal warning, which have serious weaknesses, or require special measures.
- (e) administer the arrangements for admission and exclusion appeals.
- (f) promote the educational achievement of looked after children.
- (g) be responsible together with the Strategic Director of Independent Living (DASS) transition service for disabled children.

6.2 The services and the areas of responsibility of the Strategic Director of Children’s Services shall include: Family Services, Schools, Schools’ Funding and Capital Programme, Safeguarding Children, Local Safeguarding Children’s Board, Care Leavers and Finance and Resources.

## **7. The Strategic Director of Economy**

7.1 The Strategic Director of Economy shall:

- (a) Deliver the Council’s vision and strategic objectives and have overall responsibility for all matters relating to the delivery of housing in the borough.
- (b) Arrange for the effective operation of the Council’s responsibilities for housing, including the recommending of strategies for all aspects of housing related activity, relationships with other public sector organisations, social landlords and with the private sector.
- (c) Approve applications for housing and allocate properties in accordance with the Council’s established allocations policy.
- (d) Be responsible for commissioning services relating to the management and maintenance of the Council’s housing stock and administer the HomeBuy Scheme as defined under Housing Act 1985 (as amended).
- (e) Be responsible for the delivery of compliance against health and safety in relation to the council’s role as a landlord to its housing stock.
- (f) Make arrangements to provide housing advice and support to prevent homelessness and process statutory homelessness applications.

- (g) Approve the allocation of funds to individual projects to be supported through regeneration programmes.
- (h) Be responsible for new affordable housing, through direct delivery, in partnership and through the creation and management of Council housing companies and other delivery vehicles
- (i) exercise Planning and conservation powers in accordance with the relevant legislation. Delegation includes powers to determine applications for planning permission, advertisement consent, Conservation Area Consent, Listed Building Consent, Certificates of Lawfulness and Prior Approval, application for the Council's own development and Hazardous Substances consent, to take planning enforcement action, and respond to appeals, except where otherwise directed by the relevant legislation.
- (j) Preparation and review of Planning policy documents, meeting our Duty to Cooperate and Neighbourhood Planning responsibilities, responding to National and Regional planning policy, and maintaining statutory registers
- (k) Preparation and review of the H&F Community Infrastructure Levy (CIL) charging schedule
- (l) Entering into or varying S106 Legal Agreements and ongoing monitoring of s.106 agreement.
- (m) Deliver the Council's vision and strategic objectives and have overall responsibility for all matters relating to the delivery of regeneration in the borough.
- (n) Be responsible for Council initiatives relating to the economic development and skills and adult and community learning
- (o) Deliver economic growth projects and programmes
- (p) Deliver the arts and culture strategy, and associated projects and programmes
- (q) Be responsible for Building and Property Management.
- (r) Be responsible for the Council's Building control and regulation, control over demolition functions and also its roles for dangerous structures
- (s) Take action and operate all legislative and administrative procedures in relation to the regulation of street trading.

7.2 The services and the areas of responsibility of the Strategic Director of Economy shall include:

- (a) Housing Services (includes resident involvement; tenancy management; estate caretaking),
- (b) Housing Options, (includes policy development in relation to housing allocations) homelessness assessment,
- (c) Asset Management and Property Services (includes repairs and maintenance; health and safety; physical regeneration).

- (d) Finance planning and strategy in relation to the Housing Revenue Account (including income collection, reserves and debt management) and supporting functions such as IT,
- (e) Regeneration
- (f) Economic Development and skills
- (g) Planning Policy and implementation through Regeneration and Development Management
- (h) Building and Property Management including its role to undertake asset valuations for the Council under CIPFA guidelines and also to ensure decisions on assets are in accordance with the Local Government Act 1972 (s123) and its general consents
- (i) Building control
- (j) Adult and Community Learning
- (k) New housing and commercial development and Council housing companies and other delivery vehicles

## **8. The Strategic Director of Environment**

### **8.1 The Strategic Director of Environment shall:**

- (a) arrange for the effective operation of the Council's responsibilities for the regulation of waste management and cleansing of streets.
- (b) be responsible for the borough's parks and cemeteries.
- (c) be responsible for all matters relating to the Council's functions relating to crime and disorder.
- (d) exercise the functions of the Council under the Crime and Disorder Act 1998, save for the secondment of officers to the Youth Offending Team as required by section 39(5).
- (e) be responsible for emergency planning and business continuity and undertake executive powers where necessary in the event of a civil emergency.
- (f) take action and operate all legislative and administrative procedures in relation to highways, transportation, road traffic, town and country planning and building control. This includes exercising the functions of the Council as highways, transportation and road traffic authority and the taking of all enforcement action in relation to transportation and highways.
- (g) operate the Council's on street and parking enforcement services.
- (h) exercise all licensing functions and other matters an officer is empowered to discharge under the Licensing Act 2003, the Gambling Act 2005 or any Regulations issued in relation to those Acts and any regulations amending, consolidating or replacing them.
- (i) exercise the functions of the Council relating to environmental health. This includes powers relating to: food safety, health and safety, noise and other nuisances, air quality, contaminated land and private water supplies,

and housing and private land where enforcement is the responsibility of the Council. Manage the contact services – revenues, benefits, corporate and out of hours contact centres, reception, complaints (dealing with stage 1, 2 and Ombudsman complaints, ASC and CHS statutory complaints, councillor and MP enquiries, FOI, SARs and GDPR), pay & park and accessible transport (dealing with blue badges, taxi cards, parking permits and cash payments)

- (j) manage the revenue service - administration and collection of Council Tax and National Non- Domestic Rates (Business Rates) and collection of corporate debt
- (k) manage the benefits service - administration and payment of Housing Benefit and Council Tax Support including free school meals and clothing grants
- (l) develop and implement a Council customer services strategy including business transformation and channel shift (contact channel improvement programme)
- (m) procure a corporate solution to enable customers to self-serve (Integrated Management Systems – Self Service)
- (n) be responsible for the Prevent Channel Panel – In compliance with the statutory requirements set out under sections 36 – 41 of the Counter Terrorism and Security Act 2015, H&F has a Channel panel in place for its area and has regard to the Channel duty guidance 2020. The designated Channel chair/deputy chair functions are fulfilled by Assistant Director, Adult Safeguarding. The Channel panel function in H&F is discharged through a joint panel with RBKC.

8.2 The services and the areas of responsibility of the Strategic Director of Environment shall include:

- (a) Community Safety and Emergency Planning
- (b) Commercial Management and Operations
- (c) Cleaner, Greener and Cultural Services
- (d) Customer and Business Development
- (e) Environment Finance and Resources
- (f) Environmental Health (including but not limited to food safety and standards, health & safety, health protection and infectious disease, animal health and public health)
- (g) Transportation and Highways
- (h) Licensing
- (i) Trading Standards
- (j) Contact Services
- (k) Revenue and Benefits Services
- (l) Council Customer Services Strategy

## **9. The Director of Corporate Services**

9.1 The Director of Corporate Services shall:

- (a) act as the authority's Monitoring Officer under the Local Government and Housing Act 1989
- (b) make appointments to outside bodies in accordance with the nominations made by the Party Whips.
- (c) be the proper officer in respect of matters relating to the Council's Constitution where not otherwise stated.
- (d) Manage the democratic services functions in order to ensure the efficient management of the Council's decision-making processes including arrangements for all meetings of the Council and its committees, and electoral registration and elections.

9.2 The services and the areas of responsibility of the Director of Corporate Services shall include:

- (a) Digital Services
- (b) Elections
- (c) Governance and Scrutiny
- (d) Leader's Office
- (e) Legal Services
- (f) Mortuary Services
- (g) Opposition Office
- (h) Policy and Communications
- (i) Registration and Mayor's Office
- (j) West London Coroner's Court
- (k) People and Talent

### **Other Officers**

## **10. Assistant Director, Legal Services**

10.1 The Assistant Director, Legal Services shall:

- (a) take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document
- (b) institute, defend, or participate in any legal proceedings in any case where

such action is necessary, in the view of the Assistant Director, Legal Services, to give effect to decisions of the authority or in any case where the Assistant Director, Legal Services considers that such action is necessary to protect the authority's interests

- (c) with the agreement of the relevant Chief Officer, to settle or compromise legal proceedings (including threatened proceedings, arbitrations, adjudications, public inquiries and potential Employment Tribunal matters) brought by or against the Council, including entering pleas of guilty in criminal proceedings on such terms as they consider appropriate.
- (d) with the agreement of the Monitoring Officer, instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority.
- (e) enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area.
- (f) lodge appeals against any adverse finding against the Council in any tribunal or court.
- (g) sign any document necessary to give effect to any resolution of the Council, the Cabinet, a Cabinet Member or any Committee or Sub-Committee or Strategic Leadership Team member acting within delegated power.
- (h) Shall be signatory of settlement agreements for employment matters subject to consultation with the Assistant Director People and Talent, except for Chief Officer's settlements which shall also require consultation with the Head of Paid Service and Strategic Director of Finance.

## **11. Director of Public Health**

11.1 The Director of Public Health shall be responsible for the Council's functions relating to Public Health Services, as follows:

- a) To be authorised to agree expenditure on relevant public health budgets subject to the Council's constitution. Such authority can be delegated in writing to others.
- b) To lead on personnel decisions, including recruitment, appraisal and disciplinary decisions.
- c) To report to the Chief Executive and the relevant Cabinet members and Policy and Accountability Committee.
- d) To exercise the statutory functions of the Director of Public Health. These responsibilities may be delegated in writing to named public health consultants.
- e) To report to the Council's Chief Executive on the performance of the function and to support the accountability of the Chief Executive for grant expenditure.
- f) To ensure that the Council has up-to-date plans, meeting statutory requirements and the demands of good practice.

- g) To be the officer responsible for leadership, expertise and formal advice on all aspects of the Public Health Service.
- h) To provide advice to the public in any period where local health protection advice is likely to be necessary or appropriate, in conjunction with the Council's communications team.
- i) To promote action across the life course, working together with Council colleagues and the NHS.
- j) To work through local resilience fora to ensure effective and tested plans are in place for the wider health sector to protect the local population from risks to public health.
- k) To work with local criminal justice partners and Police and Crime Commissioners to promote safer communities.
- l) To work with the wider civil society to engage local partners in fostering improved health and wellbeing.
- m) To be an active member of the Health and Wellbeing Board, advising on and contributing to the development of joint strategic needs assessments and joint health and wellbeing strategies, and commissioning appropriate services accordingly.
- n) To take responsibility for the management of the Council's public health services, with professional responsibility and accountability for their effectiveness, availability and value for money.
- o) To play a full part in the Council's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children Board.
- p) To contribute to and influence the work of NHS Commissioners, ensuring a whole system approach across the public sector.

## **12. Undetermined Functions**

12.1 For the avoidance of doubt, the responsibility for the exercise of any function which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive.

## **13. Detailed Registers of Authority**

13.1 Each Chief Officer and/or Proper Officer in making decisions under the above scheme is required to do so in accordance with the detailed register of authority for their own directorate.

13.2 These registers of authority will be reviewed annually by the Monitoring Officer.

13.3 The Monitoring Officer, in consultation with the Leader, Chief Whip and Opposition Whip, has authority to make changes to the register of authority for any Directorate as may be necessary from time to time in order to reflect any decision made by a person or body with the authority to delegate or sub-

delegate powers to exercise executive or non-executive functions. Any such changes shall be reported to the next available Council meeting for information.

## **Emergency Response Structures**

Local authorities have a wide range of services to deliver in response to an emergency affecting the community, and a need to ensure that it can keep its core, critical services functioning if faced with a significant business continuity disruption to its services.

In the event of an emergency, as defined in the Civil Contingencies Act 2004, the Council will activate its Emergency Response & Recovery Plan.

### **Response Coordination**

The response to an emergency will be managed from the Borough Emergency Control Centre (BECC). Sitting above in a strategic management role will be the Strategic Coordinating Group (Gold), chaired by the Chief Executive or the Lead Director of Resilience who is the Strategic Director of Environment).

### **Interface with Members**

The Gold chair, Chief Executive or nominated Gold officer will provide to the Leader of the Council a daily situation report on critical services.

The Leader of the Council may wish to convene a weekly meeting of his Cabinet Members to be updated by Cabinet Members, who in turn are briefed by their own Directors about the impact of the emergency on their services.

The purpose of the Gold Meeting is to make all strategic decisions relating to the management of the organisation and its response to the emergency. This includes all Member liaison.

## **PART 4 – RULES OF PROCEDURE**

## Council Procedure Rules

The Full Council is the formal decision-making body of the Authority and its operation is governed by rules of debate and order, which are set out below.

### 1. ANNUAL MEETINGS

- 1.1 The Council shall in every year hold an annual meeting, at a date, time and place to be fixed by the Council, in accordance with paragraphs (b) and (c) of this Standing Order.
- 1.2 The annual meeting of the Council shall be held:
  - (a) In a year of ordinary elections of Councillors to the Council, on the eighth day after the day of retirement of the Councillors or such other day within 21 days immediately following the day of retirement as the Council may fix;
  - (b) In any other year, on such day in the month of March, April or May as the Council may fix.
- 1.3 An annual meeting of the Council shall be held at 7.00pm, if no other time is fixed by the Council.
- 1.4 The matters to be considered at the annual meeting shall be:
  - (a) Electing a Mayor and appointing a Deputy Mayor.
  - (b) Receiving the report of the Chief Executive on appointments by Party Groups, and, in an election year, of the election of Councillors.
  - (c) Adopting or changing the Constitution.
  - (d) Approving or adopting the budget and policy framework of the authority.
  - (e) Electing the Leader of the Council for the ensuing four-year period.
  - (f) Receiving a report from the Leader on the appointment of the Deputy Leader and other members of the Executive.
  - (g) Appointing the Chair and membership of Committees, Policy and Accountability Committees and other regulatory bodies, and approving their respective terms of reference.
  - (h) Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council.
  - (i) Receiving a report from the Leader about the delegation of Executive functions, and agreeing schemes of delegation to officers in respect of non-executive functions.
  - (j) Reviewing an allowance scheme for members.
  - (k) Receiving annual reports from the Executive, the Opposition leadership and Whip, the Audit Committee, Pension Fund Committee, Standards Committee, the Chairs of the Council's Policy and

Accountability Committees, and the Youth Mayor or Deputy Youth Mayor on work undertaken in the previous year.

- (l) Agreeing the Council Calendar of meetings.
- (m) Reports from officers as required in the proper discharge of functions delegated by the Council.
- (n) Considering any petitions made to the Council under the Petitions Scheme at Annex A.
- (o) Special motions.

## **2. BUSINESS AT ORDINARY COUNCIL MEETINGS**

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

- (a) Any plans, strategies or decisions required by statute to be considered and determined by the full Council.
- (b) Reports from the Leader, the Executive, Policy and Accountability Committees or other Committees of the Council, and the Youth Mayor or Deputy Youth Mayor as required.
- (c) Issues placed on the agenda by the Leader as being of interest or concern to those living or working in the Borough.
- (d) Reports from the Chief Executive, Chief Finance Officer (s.151 Officer) or Monitoring Officer, as required to meet statutory functions.
- (e) Reports from officers as required in the proper discharge of functions delegated by the Council.
- (f) Urgent matters in accordance with the provisions of Paragraph 4(5) of Part I of Schedule 12 of the Local Government Act 1972 (as amended by LGA 2000).
- (g) Special Motions (except at the Budget and Extraordinary meetings of the Council).
- (h) Considering any petitions made to the Council under the Petitions Scheme.
- (i) Questions submitted by the public and the Youth Mayor or Deputy Youth Mayor on behalf of young people (except at the Annual and Extraordinary meetings of the Council).
- (j) Any other issues raised by young people that affect the lives of young people who live, study, or work in the borough.

## **2.2 Conflict Resolution Mechanism**

The provisions of paragraph 2 (d) – (j) of the Budget and Policy Framework Procedure Rules of the Constitution shall apply where there is conflict between the Executive and the Council in agreeing the Budget and Policy framework.

### 3. OTHER COUNCIL MEETINGS

- (a) The Council shall hold a Budget meeting at a time, date and place fixed by the Council to:
  - determine the annual estimates and the Council Tax for the ensuing financial year and
  - adopt to an allowance scheme for members.
- (b) The Council may hold, in addition to the Annual meeting and the Budget meeting, such other meetings at such hour, on such days and at such place as the Council may determine.
- (c) An Extraordinary meeting of the Council may be called at any time by the Mayor. (In determining the date of the Extraordinary Council Meeting, where this has been requisitioned by five Councillors, the Mayor shall have regard to the nature and urgency of the item of business which is the subject matter of the requisition). An Extraordinary meeting may consider any of the matters specified in Rule 2.1 above (Business at ordinary Council meetings) except questions submitted by the public.
- (d) If the Mayor refuses to call an Extraordinary meeting of the Council after receiving a requisition for that purpose signed<sup>2</sup> by five Councillors or if, without so refusing, the Mayor does not call an Extraordinary meeting within seven days of receiving a requisition, then any five Councillors, on that refusal or on the expiration of those seven days, may forthwith call an Extraordinary meeting of the Council.
- (e) In addition to the Mayor and any five Councillors, the Chief Executive or the Monitoring Officer, as a matter of urgency, may call an Extraordinary meeting of the Council at any time.

### 4. NOTICE OF MEETING

- (a) At least five clear working days<sup>3</sup> before a meeting of the Council:
  - (1) Notice of the date, time and place of the intended meeting shall be published on the Council's website, and where the meeting is called by Councillors in accordance with Council Procedure Rule 3(d) above, the notice shall be signed<sup>2</sup> by those Councillors and shall specify the business proposed to be transacted.
  - (2) A summons to attend the meeting, specifying the business proposed to be transacted and signed<sup>2</sup> by the proper officer of the Council, shall, subject to sub-paragraph (b) below, be sent to every Councillor.
  - (3) A copy of the agenda shall be open to inspection by members of the public.

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<sup>2</sup> The term 'signed' in this context means either in manuscript, facsimile or by other electronic means.

<sup>3</sup> The term 'clear days' below refers to weekdays, and excludes weekends, Bank Holidays, the day the notice, agenda or summons is published, and the day on which the meeting is held.

- (b) If a Councillor specifies in writing to the Monitoring Officer that they desire a summons to attend meetings of the Council to be sent to them at some address so specified other than their place of residence, any summons addressed to them and left at or sent by post to that address shall be deemed sufficient service of the summons.
- (c) Summons will be sent in electronic form to Councillors consenting in writing to the summons being so sent, until such consent is withdrawn in writing. Such consent may be withdrawn at any time.
- (d) Want of service of a summons on any Councillor(s) shall not affect the validity of a meeting of the Council.

## **5. MAYOR**

- (a) The Mayor shall be elected annually by the Council from among the Councillors.
- (b) The Mayor, unless they resign or becomes disqualified, shall continue in office until their successor becomes entitled to act as Mayor.
- (c) During their term of office, the Mayor shall continue to be a member of the Council notwithstanding the provisions relating to the retirement of Councillors.
- (d) The election of the Mayor shall be the first business transacted at the Council's annual meeting.
- (e) If, apart from paragraph (c) above, the person Chairing the Annual Meeting (during the election referred to in paragraph (d) above) would have ceased to be a Councillor they shall not be entitled to vote in the election except to exercise their casting vote.
- (f) In the case of an equality of votes the Mayor shall have a casting vote in addition to any other vote they may have.
- (g) The Mayor may appoint a Councillor to be Deputy Mayor, and the person so appointed shall, unless they resign or becomes disqualified, hold office until a newly elected Mayor becomes entitled to act as Mayor (whether or not the Deputy Mayor continues until that time to be a Councillor).
- (h) The Deputy Mayor may, if for any reason the Mayor is unable to act or the office of Mayor is vacant, discharge those functions which the Mayor as such might discharge, except that they shall not take the chair at a meeting of the Council unless specially invited by the meeting to do so under Council procedure rule 8.2 below.

## **6. COUNCILLORS' TERMS OF OFFICE**

- (a) Councillors' terms of office are four years and they retire on the fourth day after the Council election when the newly elected Councillors come into office.
- (b) Vacation of Office - a person elected to any office under the Local Government Act 1972 or a member of a Committee or other body may at any time resign their office or membership by written notice

delivered to the Chief Executive and the resignation shall take effect upon the receipt of the notice.

- (c) Subject to sub-paragraphs (d) and (e) below, if a member of the Council or Executive fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council or Executive they shall, unless the failure was due to some reason approved by the Council before the expiry of that period, cease to be a member of the Council or Executive.
- (d) Attendance as a Councillor at any Executive or Council Committee which discharges or advises the Council on the discharge of its functions shall be deemed for the purposes of sub-paragraph (c) to be attendance at a Council meeting. (For purposes of clarification this includes all Executive, Committee, Sub-Committee, Policy and Accountability Committee or quasi-judicial (i.e. regulatory) bodies established by the Council).
- (e) Councillors are relieved from disqualification on account of absence if it is due to employment by Her Majesty's naval, military or airforce services or the service of Her Majesty in connection with war or any emergency as agreed by the Secretary of State.
- (f) Where a Councillor ceases to be qualified or is disqualified, the Council shall, except in any case in which a declaration has been made by the High Court under the Act, forthwith declare their office vacant.
- (g) A person elected or appointed under the Act to fill any casual vacancy shall retire on the date on which the person whom they are replacing would have retired.
- (h) Committees and their Chairs/Vice Chairs shall remain constituted or hold office until their successors are appointed, except in a Council election year, when they will cease to be constituted or hold office at the end of the day preceding the election.

## **7. COUNCILLORS**

- (a) A person shall, so long as they are, and for twelve months after they cease to be a Councillor, be disqualified from being appointed by the Council to any paid office.
- (b) Unless specifically authorised so to do by the Council or a Committee, a Councillor shall not issue any order in respect of any works which are to be or are being carried out by or on behalf of the Council or claim by virtue of their membership of the Council, any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.
- (c) A Councillor may request information from a Director but such a request may be declined if in the opinion of the Chief Executive (or the Monitoring Officer in their absence), it entails intensive research, or an undue expenditure of time or abortive costs, or there is another good reason for non-compliance.

- (d) A Councillor acting professionally, by themselves, or by their partner, in conflict with the interest of the Council, shall on each occasion notify the Chief Executive and Monitoring Officer.

## **8. ROLE OF MAYOR, LEADER & CABINET MEMBERS**

- 8.1 At a meeting of the Council, the Mayor, if present, shall preside.
- 8.2 If the Mayor is absent from a meeting of the Council then the person appointed by the Mayor as Deputy Mayor shall preside, providing that they remain a Councillor and are chosen to preside by the Councillors then present.
- 8.3 If the Mayor and Deputy Mayor are absent from a meeting of the Council, or the Deputy Mayor, being present, is not chosen to preside or no appointment of Deputy Mayor has been made, another Councillor chosen by the Councillors present shall preside.
- 8.4 The Leader and the other members of the Executive (referred to herein as Cabinet Members) shall have the right to speak first in debate on any matters falling within their Portfolios at meetings of the Council (after any other Councillor in whose name a motion or amendment may stand).
- 8.5 The Leader and Cabinet Members may be called to answer questions on such matters at meetings of the Council's Policy and Accountability Committees in accordance with the provisions relating to the meetings of these bodies.

## **9. COUNCIL QUORUM**

- 9.1 The Council shall not carry out any business at their meetings unless at least one quarter of the total number of Councillors are present (i.e. 13 Councillors).
- 9.2. If no quorum is present 15 minutes after the start time of a Council meeting, or if during the course of a meeting it becomes inquorate, the meeting shall be adjourned. Any outstanding business at a Council meeting shall be held over to a time to be fixed by the Mayor or to the next ordinary Council meeting.

## **10. MINUTES**

- 10.1 Minutes of Council or Committee or Panel meetings shall be kept in a minute book and shall be signed at the next ordinary meeting by the Mayor/Chair.
- 10.2 A Council or Committee or Panel meeting which has had its minutes properly signed shall be deemed to have been held, and all Councillors present at the meeting shall be deemed to have been duly qualified, until the contrary is proved.

- 10.3 There shall be no discussion of the minutes except on their accuracy. Any question of accuracy should be raised by motion. The Mayor/Chair shall sign the minutes once they have been voted on.

## **11. ATTENDANCE**

- 11.1 The names of the Councillors present at a meeting of the Council shall be recorded.

## **12. PUBLIC QUESTIONS**

- (a) There shall be a public question time not exceeding 20 minutes in total at each ordinary meeting of the Council, including the Budget Council meeting. No public questions may be asked at the Annual Council meeting or any Extraordinary meeting convened.
- (b) A member of the public, or Youth Mayor or Deputy Youth Mayor on behalf of a young person, who lives, works, or is being educated in the Borough, may ask the Leader or a Cabinet Member one question (and one supplementary on their reply) on any matter relating to the discharge of the Council's functions. The question must be in writing<sup>4</sup> and submitted to the Monitoring Officer at least 7 clear days<sup>5</sup> [no later than 12 noon] before the day of the Council Meeting.
- (c) Questions may be edited as necessary by the Monitoring Officer both to bring them into proper form and to secure brevity. Questions which, in the opinion of the Mayor, are defamatory or unsuitable in form, frivolous or derogatory shall not be accepted.
- (d) The Mayor shall call the questions in the order that they have been received and the member of the public submitting the question shall then read it out. (If the questioner is not present when the question is called, a written reply shall be provided).
- (e) Replies to questions shall be oral. However, persons questioned may decline to reply, if, in their opinion, questions involve an excessive and unnecessary amount of time on the part of officers in collating or preparing the information required.
- (f) A Cabinet Member or the Leader may arrange for the reply to be given by another Councillor.
- (g) There shall be no speech or discussion allowed on any question or reply.
- (h) If a question does not receive a reply within the time allowed for the public session, the Leader or Cabinet Member shall provide a written reply to the questioner. All public questions and the reply given by the Leader or Cabinet Member shall be recorded in the Minutes of the Council.

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<sup>4</sup> The term 'in writing' in this context means in manuscript, facsimile or by email.

<sup>5</sup> The term 'clear days' below refers to weekdays, excluding weekends, Bank Holidays, the day the question is received, and the day on which the meeting is to be held.

### 13. REPORTS TO COUNCIL

13.1 The Leader, Executive, Policy and Accountability Committees or other Committees of the Council may place reports on the Council agenda.

13.2 Recommendations may be:-

- (a) approved or rejected on a majority vote;
- (b) varied by way of amendment; or
- (c) referred back for reconsideration.

provided that decisions in relation to Executive functions may only be referred back to the Executive for reconsideration.

### 14. SPECIAL MOTIONS

- (a) Any two Councillors may submit a Special Motion for debate by the Council. Such motions shall be published in the agenda for the meeting.
- (b) Special Motions must be relevant to matters affecting the lives of people living and working in the Borough.
- (c) Special Motions may be ruled out of order by the Mayor, on advice from the Monitoring Officer, if they are irrelevant to the affairs of the Borough, defamatory, or place the Council at legal risk. Where ruled out of order, such motions shall not be placed on the agenda, and the mover and seconder shall be notified. Where motions are submitted close to the deadline, and review has not been possible prior to publication of the agenda, the Mayor may make a ruling, on advice, at the Council meeting. Motions that are ruled out of order at Council meetings may not be amended to make them valid. Neither may a substitute motion be tabled.
- (d) A Councillor may not move a Special Motion to directly overturn a Council resolution arising from a previous Special Motion passed in the previous six months. A Special Motion or amendment may not be submitted to the same effect as one rejected in the preceding 6 months.
- (e) Special Motions must be submitted to the offices of the Monitoring Officer signed<sup>6</sup> by the mover and seconder, no later than midday **7 clear days**<sup>7</sup> before the date of the Council meeting (i.e. by midday (12 Noon) on the Friday (normally) the week before the date of publication of the Council agenda).
- (f) Amendments to Special Motions or report recommendations at virtual meetings of Full Council must be submitted prior to the meeting. They

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<sup>6</sup> The term 'signed' in this context means either in manuscript, facsimile or by email.

<sup>7</sup> The term 'clear days' below refers to weekdays, and excludes weekends, Bank Holidays, the day the motion is received and the day on which the meeting is held.

will only be accepted for debate and / or voting if received by 7pm on the day before the meeting.

- (g) Special Motions will be included on the agenda in the order that they are received.
- (h) Amendments to Special Motions must relate sufficiently to the original motion so as not to contravene requirements for public notice of matters on the Council agenda as required by the 1972 Local Government Act.
- (i) Special Motions may be withdrawn at, or prior to, a Council meeting. Motions not moved or seconded shall be treated as withdrawn.
- (j) Special Motions shall be debated in accordance with the rules of debate and may be (i) supported; (ii) supported in amended form following one or more amendments moved and accepted; (iii) opposed.
- (k) No Councillor shall move or second more than two Special Motions at the same meeting.
- (l) No Special Motions shall be debated at Budget and Extraordinary Council meetings.

## **15. RULES OF DEBATE AT COUNCIL**

- (a) Debate may be on motions, recommendations or other items placed on the Council agenda.
- (b) Speeches should be relevant to the subject under discussion and be addressed to the Mayor. No speech may exceed 5 minutes without the consent of the Mayor except:
  - (1) At the Budget meeting, the Leader shall be allowed unlimited time to set out their priorities or to propose the Budget.
  - (2) The Leader of the Opposition shall also be allowed unlimited time to reply to a Leader's speech at the Budget Meeting.
  - (3) In the event of the absence of the Leader or the Leader of the Opposition at the Budget meeting, the Mayor shall invite the Deputy Leader or another Cabinet Member (for the Leader) or another Member of the same political group (for the Leader of the Opposition) to exercise the rights of speech of the Leader or the Leader of the Opposition.
  - (4) Up to 3 other speakers from each side shall speak at the Budget meeting. No speech may exceed 5 minutes.
  - (5) The Leader of the Council will then be given an opportunity to sum up the debate.
- (c) The Mayor shall call speakers in a manner designed to achieve effective debate and to air the views of all political parties. A Councillor who has initiated a debate by Special Motion shall have a right of reply at the end of the debate.
- (d) When speaking at meetings of the Council, a Councillor may sit or stand to address the Mayor. If two or more Councillors indicate they

wish to speak, the Mayor will call on one and the others should sit while they wait to be called on. When a Councillor is speaking, all other Councillors shall remain seated, unless rising to a point of order or a point of personal explanation (see below). Points of order and personal explanation can also be indicated while seated.

- (1) **On a point of order:** A Councillor shall be entitled to be heard forthwith. Any other Councillor then speaking shall give way. A point of order shall relate only to an alleged breach of a Rule or statutory provision, and the Councillor shall specify the Rule or statutory provision, and the way in which they consider it has been contravened. The Councillor's remarks shall be confined to the point of order.
  - (2) **On a point of personal explanation:** A Councillor shall be entitled to be heard forthwith. Any other Councillor then speaking shall give way. A point of personal explanation shall be confined to some material part of a former speech by them, which may appear to have been misunderstood in the present debate, or as to some statement or act wrongly attributed to them. But in making such explanation, the Councillor must confine their remarks strictly to that point and must not refer to other matters, nor endeavour to elaborate a former speech by new arguments, or reply to other Councillors.
- (e) The following Motions and Amendments may be moved without prior notice:
- (1) Election of a Chair for the meeting (if the Mayor is absent), and/or to invite the Deputy Mayor, if present, to take the Chair.
  - (2) Motions relating to the accuracy of the minutes.
  - (3) That an item or items of business specified in the agenda shall have precedence.
  - (4) That leave be given to withdraw a motion.
  - (5) Extending the time limit of speeches.
  - (6) Amendment to a motion or recommendation.
  - (7) That the meeting proceed to the next business.
  - (8) That the question be now put.
  - (9) That the meeting or debate or Special Motion be now adjourned.
  - (10) Point of Order.
  - (11) Point of personal explanation.
  - (12) Suspension or variation of Council Rules (except those of statutory effect).
  - (13) A motion under Section 100(A) of the Local Government Act 1972 to exclude the public.
  - (14) That a Councillor named be not further heard.

- (15) Inviting a Councillor to remain after declaring an interest under the terms of the Code of Conduct.
- (f) **On a motion to adjourn the meeting or debate:** Unless in the Mayor's opinion the matter before the meeting has been insufficiently discussed, the Mayor shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply on that occasion. If the motion is passed, consideration of the matter(s) under discussion shall stand adjourned to a further meeting.
- (g) **On a motion to adjourn a Special Motion:** The Mayor shall put the adjournment motion to the vote without giving the mover of the original motion the right of reply. If the motion is passed, consideration of the matter(s) under discussion shall stand adjourned to a further meeting.
- (h) **On a motion to proceed to next business:** Unless in the Mayor's opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business.
- (i) **On a motion that the question be now put:** Unless in the Mayor's opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first put to the vote the motion that the question be now put, and if it is passed, then give the mover of the original motion the right of reply before putting their motion to the vote.
- (j) A Councillor may move a relevant amendment to any motion or recommendation. Such amendments shall require a seconder and shall, if required, be put in writing to the Mayor before discussion.
- (k) An amendment shall be relevant to the motion or recommendation and shall leave out, add or insert words.
- (l) Only one amendment shall be discussed at a time. If an amendment is lost, other amendments may be moved on the original motion or recommendation. If an amendment is carried, the motion or recommendation as amended shall take the place of the original motion or recommendation and shall become the substantive motion or recommendation upon which any further amendments may be moved.
- (m) A motion may be withdrawn or altered with the consent of the meeting by the mover or seconder of the motion or their Party's Whip on their behalf whether prior to or during the meeting. No member may speak on a withdrawn motion.
- (n) After the guillotine has fallen, all circulated amendments to motions shall be taken as proposed and seconded. The Mayor shall put to vote, without discussion, each amendment to the undebated motions to complete the consideration of any remaining items of business on the agenda.

**16. ORDER OF DEBATE AT COUNCIL (When a Member may speak during a debate)**

- 16.1 All motions and amendments must be formally moved and formally seconded by Members, or deemed to be so under these Rules, before they may be debated and voted upon.
- 16.2 A mover of the motion or amendment may elect to speak immediately or reserve their speech until later in the debate (subject to the prior termination of the meeting or a resolution that the matter be now put).
- 16.3 A Member seconding a motion or amendment shall indicate their intention to second the motion immediately following the proposal of the motion, and may then elect to speak immediately following the proposer, or may elect to reserve their speech until later in the debate (subject to the prior termination of the meeting or a resolution that the matter be now put).
- 16.4 The Mayor will then call any Members who have indicated to speak.
- 16.5 If an amendment is moved, the debate shall proceed in the following manner:
- (a) The mover of the amendment, thereafter the seconder of the amendment shall speak unless they have reserved their speech
  - (b) Then shall follow such other speakers as the Mayor considers appropriate
  - (c) A vote shall be taken on the amendment
  - (d) The Mayor will then call any further Members who have indicated they wish to speak on the substantive motion.
  - (e) The mover of the substantive motion shall have a right to reply at the end of the debate immediately before it is put to the vote.
  - (f) A vote shall be taken on the substantive motion, as amended if appropriate.
  - (g) If more than one amendment is moved, they shall be debated separately and voted upon one at a time.

*NOTE: A member may speak only once on a motion and also once on an amendment except where they have the final right to reply.*

## **17. VOTING AT COUNCIL AND COMMITTEE MEETINGS**

- (a) All questions considered by Council or a Committee shall be decided by a simple majority of the Councillors (or voting members comprising the Panel) present and voting thereon, subject (in the case of voting at Council meetings) to the provisions of any enactment. Where there is no dissent, the Mayor shall take the recommendation or motion as agreed.
- (b) If there is dissent, the Mayor shall take a vote by show of hands. The Mayor shall announce the result of the votes – For, Against and Not Voting.
- (c) In the case of an equality of votes, the Mayor/Chair shall have a second or casting vote and may exercise it at their discretion.

- (d) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require a recorded vote to be taken on any decision relating to the budget or council tax and will follow the procedure set out at Rule 17(e) below.
- (e) In addition to Rule 17(d), if at a meeting any five Members present demand a recorded vote by standing, prior to the Mayor calling a vote, to indicate such demand, the names “for” or “against” the motion or amendment or abstaining from voting i.e. “not voting” will be taken down in writing and entered into the minutes. The procedure for a recorded vote shall be as follows:
  - (i) The Monitoring Officer or their representative shall ring the division bell for a minute. At the end of the one minute division bell, the Mayor shall put the motion to a vote and the Monitoring Officer or their representative shall call out the names of Members and record their votes or abstentions.
  - (ii) Each member shall answer “For”, “Against” or “Not Voting”.
  - (iii) The Mayor shall declare the result of the vote and the vote of each Member shall be recorded in the minutes.
- (f) This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and cannot therefore be waived. Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- (g) If more than two persons are nominated for any position to be filled by Council and there is not a majority vote in favour of one person, then the person with the least votes shall be removed from the list and a fresh vote taken. This shall continue until one person has a majority of votes.

## **18. REGULATORY, POLICY AND ACCOUNTABILITY AND OTHER COUNCIL COMMITTEES**

- 18.1 The Membership and Terms of Reference of all Council Committees shall be decided by Annual Council and any subsequent vacancies or changes made at future Council meetings.
- 18.2 Membership and terms of reference of any Sub-Committees, Advisory Committees, Working Groups or other Panels shall be decided by their parent body.
- 18.3 Annual Council shall set the dates for Council and other Committee meetings, provided that the Chair/Vice-Chair, or Chief Executive or Monitoring Officer may, in instances of urgency, call a meeting in consultation with the Chief Whip.
- 18.4 A Chair of a Committee may cancel a meeting on the grounds of insufficient business, in consultation with the Chief Whip.

18.5 Subject to the provisions of Section 100(A) of the Local Government Act 1972:

- (a) The Chair of a Committee may vary the date and time of a meeting only after consultation with the Chief Whip.
- (b) The Opposition Whip shall be notified immediately of any changes.

18.6 In the absence of the Chair of a Committee, the Vice-Chair shall not take the chair at a meeting. The members present shall elect a Chair for the meeting from among the members then present, who shall have the second or casting vote. If the Chair subsequently attends the meeting, the person then in the chair shall vacate it.

## 19. QUORUM OF COMMITTEES & PANELS

19.1 Quorums for all Council meetings can be found in Part 3 of the Constitution in Committee Terms of Reference.

19.2 If a quorum is not present 15 minutes after the start time of a meeting, the business shall be adjourned to a date to be arranged.

19.3 If a quorum is lacking at any time after a meeting has started, the meeting shall be suspended for up to 15 minutes, after which time, if a quorum is still not achieved, the meeting will end. Any items of business remaining on the agenda for that meeting will then be lost.

## 20. RULES OF DEBATE AT COMMITTEES<sup>8</sup>

(a) Debate may be on reports, recommendations or other items placed on the agenda for the meeting.

(b) The Chair shall order the meeting in a manner designed to achieve effective debate and to air the views of all political parties.

(c) When a Councillor is speaking, all other Councillors shall remain silent, unless speaking to a point of order or in personal explanation (see below).

1. **On a point of order:** A Councillor shall be entitled to be heard forthwith. Any other Councillor then speaking shall be silent. A point of order shall relate only to an alleged breach of these Council procedure rules or a statutory provision, and the Councillor shall specify which rule or statutory provision, and the way in which they consider it has been contravened. The Councillor's remarks shall be confined to the point of order.
2. **On a point of personal explanation:** A Councillor shall be entitled to be heard forthwith. Any other Councillor then speaking shall be silent. A point of personal explanation shall be confined to some part of a speech which may have been misunderstood, or to some statement or act wrongly attributed to the councillor. In making such explanation, the

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<sup>8</sup> Excepting the Cabinet, to which the Executive Procedure Rules shall apply

Councillor must confine their remarks strictly to that point and must not refer to other matters, nor endeavour to elaborate a former speech by new arguments, or reply to other Councillors.

- (d) The following may be moved without prior notice:
1. Election of a Chair for the meeting (if absent) and/or to invite the Vice-Chair, if present, to take the chair.
  2. Motions relating to the accuracy of the minutes.
  3. That an item or items of business specified in the agenda shall have precedence
  4. That a report, recommendation or amendment be withdrawn.
  5. To move an amendment to a recommendation.
  6. That the meeting proceed to the next business.
  7. That the recommendation/amendment be now put.
  8. That the meeting or debate be now adjourned.
  9. Point of Order.
  10. Point of personal explanation.
  11. Suspension or variation of Council Procedure Rules (except those of statutory effect).
  12. A motion under Section 100(A) of the Local Government Act 1972 to exclude the public.
  13. That a Councillor named be no longer heard.
  14. Inviting a Councillor to remain after declaring an interest under the terms of the Code of Conduct.
  15. To suspend the meeting
- (e) **On a motion to adjourn the meeting or debate:** Unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall put the adjournment motion to the vote. If the motion is passed, consideration of the matter(s) under discussion shall stand adjourned to a further meeting.
- (f) **On a motion to proceed to next business:** Unless in the Chair's opinion the matter before the meeting has been insufficiently discussed, the Chair shall put the motion to proceed to the next business to the vote.
- (g) A Councillor may move an amendment to any recommendation. Such amendments shall require a seconder and shall, if required, be put in writing to the Chair before discussion.
- (h) Only one amendment shall be discussed at a time. If an amendment is lost, other amendments may be moved on the original recommendation. If an amendment is carried, the recommendation as amended shall take the place of the original recommendation and shall become the substantive recommendation upon which any further amendments may be moved.

## 21. DECLARATIONS OF INTEREST<sup>9</sup>

- (a) If a Councillor (or a co-opted member) has a **disclosable pecuniary interest** in any particular agenda item at a meeting, they should declare the existence and nature of the interest (unless it is a sensitive interest) at the commencement of the consideration of that item or as soon as it becomes apparent.
- (b) Any Councillor with a **disclosable pecuniary interest** may make representations, give evidence or answer questions about the matter, but only at meetings where members of the public are allowed to be in attendance and to speak. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken, unless a dispensation has been obtained from the Standards Committee.

At meetings where members of the public are not allowed to be in attendance, then the Councillor with a **disclosable pecuniary interest** must withdraw from the meeting while the matter is under consideration, unless the Standards Committee have granted a dispensation.

- (c) Each Councillor (or co-opted member) shall, within **28 days** of their election or appointment to office (if that is later) give to the Monitoring Officer or another approved officer a general notice, to be recorded in the Register of Members' Interests open to public inspection, of any **disclosable pecuniary interests**, as defined in the Code of Conduct in Part 5 of the Constitution.
- (d) If a Councillor (or co-opted member) has declared a **disclosable pecuniary interest** at a meeting which has not been recorded in the Register of Members' Interests they shall, within **28 days** of the declaration, give notice of the interest to the Monitoring Officer.

## 22. ORDER AT COUNCIL AND COMMITTEE MEETINGS

- (a) Councillors shall abide by the provisions of the Code of Conduct and the ruling of the Mayor/Chair on all matters.
- (b) If at a meeting any Councillor is guilty of misconduct by persistently disregarding the ruling of the Mayor/Chair, behaving improperly or irregularly, persistently heckling, using racist or sexist language or obstructing the business of the meeting, the Mayor/Chair or any Councillor may move "That the Councillor named be not further heard." If the motion is seconded, it shall be put and determined without discussion.
- (c) If the Councillor named continues misconduct, after a motion under (b) is carried, and does not heed a further warning from the Mayor/Chair, the Mayor/Chair shall be empowered to require the Councillor to leave the meeting.
- (d) The Mayor/Chair may at their discretion suspend the meeting for such period of time that they consider expedient.

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<sup>9</sup> This Rule shall apply to all Council, Executive, Regulatory, Policy and Accountability Committee or any other Council Committee meetings.

- (e) In the event of general disturbance which in the opinion of the Mayor/Chair renders the due and orderly despatch of business impossible, the Mayor/Chair may, without the question being put, suspend the meeting for such period of time that they consider expedient and so announces.
- (f) The Mayor/Chair, in the event of a continuous disturbance which renders the orderly despatch of business impossible, may order the clearance of the public galleries and/or the removal of individuals from the meeting or room.
- (g) The Council will provide reasonable facilities for any member of the public to report on meetings that are open to the public:
  - (i) Members of the public may film, photograph or record for social media any meeting of the Council that is open to the public. Members of the public wishing to do so are asked to make themselves known to Council officers so that appropriate provisions can be made.
  - (ii) Private meetings or discussions of agenda items containing exempt or confidential information (as defined by paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended) may not be filmed or recorded.
  - (iii) Filming and photography may not be allowed when young or vulnerable people are speaking or in attendance.
  - (iv) Filming and photographing should be conducted using hand-held devices and carried out in a way which is conducive to the good order and conduct of the meeting.
  - (v) Attendees should be informed that a meeting is being photographed, filmed or recorded.
  - (vi) The Mayor or Chair of the meeting may order that filming or photography must stop if it is being disruptive to the conduct of the meeting.
  - (vii) Larger film crews with roving cameras are obliged to agree authorisation at least one working day before the meeting commences.
  - (ix) Recordings of meetings can be shared online; however if they are edited to misrepresent proceedings, the Council may request that the recordings be removed.
- (i) Smoking shall not be permitted during any Council, Executive, Regulatory, or Policy and Accountability Committee or any other Council Committee meetings.
- (j) Consumption of drink, other than water, shall not be permitted during a Council meeting.
- (k) Meetings of the Council may be preceded by prayers.
- (l) Each Member shall ensure that their mobile devices are on silent or switched off during any meeting. If on silent, that their use of such equipment does not interfere with the proper conduct of the meeting.

## **23. ADMISSION/EXCLUSION OF PRESS AND PUBLIC**

- (a) Council, Executive and Policy and Accountability Committee meetings shall be open to the press and public, unless they are excluded by a resolution under this paragraph, or under the provisions of the Access to Information Procedure Rules set out elsewhere in the Constitution, or for disorder.
- (b) Applicants or their agents and people who have commented on a planning application are able to speak at meetings of the Planning and Development Control Committee where the application is being considered, in accordance with the Public Speaking at Planning and Development Control Protocol in Part 5 of the Constitution. Written petitions made on a planning application are incorporated into the officer report to the Planning and Development Control Committee. Petitioners, as members of the public, are welcome to attend meetings, but are not permitted to speak. They can, however, be represented by their Ward Councillor, who may address the Committee. Deputation requests are not accepted on applications for planning permission.

#### **24. MOTION TO CLOSE MEETING<sup>10</sup>**

- 24.1 A Councillor may move without comment at the conclusion of a speech, to close the meeting. After the motion is seconded the Chair shall proceed as follows:
- (a) Seconding will be without a speech. The mover and one other speaker replying on invitation of the Chair, may speak for five minutes only and the question shall then be put.
  - (b) If the motion is carried, the Chair will then follow the procedures to close the meeting (guillotine provisions) below. Any member who has moved or seconded such a motion may not move or second another such motion subsequently during the course of the meeting. A motion to close shall not be moved (without leave of the Chair) within one hour of the moving of a previous closure motion.

#### **25. GUILLOTINE PROVISIONS**

- 25.1 All Council, Executive, Policy and Accountability Committee, Regulatory Committee and other Committee meetings (with the exception of Personnel, Planning, Adoption, Licensing, and Appointments Panels) shall end after three hours (“the guillotine”).
- 25.2 The time elapsed during any suspension of a meeting shall be added to extend the time at which the following provisions come into effect:
- (a) At that time, or at any other time when a motion to close the meeting has been successfully carried;
  - (b) No further points of order shall be raised except by the Mayor/Chair; except that Councillors may declare an interest in any remaining items of business;

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<sup>10</sup> This Rule applies only to meetings of the Council.

- (c) The Mayor/Chair shall then interrupt the discussion of the item before the meeting;
- (d) Unless the mover of a motion then under discussion seeks leave to withdraw it, the Mayor/Chair shall allow them a right of reply to the debate;
- (e) Unless the motion or item of business then under discussion is withdrawn, the Mayor/Chair shall put, without further discussion, all the questions necessary to dispose of it;
- (f) The Mayor/Chair shall put without discussion, all the questions necessary to complete consideration of any remaining items on the agenda;
- (g) Finally, the Chair shall close the meeting.

25.3 Prior to the guillotine provision coming into effect, where the Council, Executive, Policy and Accountability Committee, Regulatory Committee or other Council Committee believes that a specific extension of time is warranted, this may be agreed by a resolution to extend the guillotine for a specified period. There is no limit to the number of extensions which may be agreed under this rule for Regulatory or Policy and Accountability or any other Council Committee, but at a Council meeting only one extension shall be allowed. No motion to extend the guillotine shall be permitted once the guillotine has fallen.

## **26. SUSPENSION OF RULES**

- (a) In respect of business at Council meetings, any Rule, except those of statutory effect, may be suspended on a motion which may be moved without notice, provided at least one half of the whole number of Councillors are present; otherwise no motion of such effect shall be moved without notice.
- (b) At Committee meetings, these Rules shall not be suspended.

## **27. INTERPRETATION**

- (a) In relation to the conduct of meetings of the Council and the Council's business in relation thereto, the ruling of the Mayor as to the conduct or application of any of these Rules shall not be challenged.
- (b) In relation to the administration of the Council's business and to the business of Committees, these Rules shall be interpreted in cases of doubt by the Monitoring Officer, whose ruling shall not be challenged.

## **28. REMOTE MEETINGS**

28.1 Where legislation allows, meetings may be held using digital means (i.e. video or telephone conferencing). This means meetings can be held in person, virtually, or with some people attending in person and some people attending virtually.

## Petitions Scheme

### 1. INTRODUCTION

- 1.1 This Petitions Scheme was approved by the Council under the provisions of Section 11(1) of the Local Democracy, Economic Development and Construction Act 2009. It incorporates procedures to comply with the requirement under the act for the Council to set up an e-petitions scheme.
- 1.2 This scheme, which is available on the Council's website, will be updated periodically in response to experience with the scheme, guidance from the Government or changes in legislation. The scheme will be reviewed annually as set out in Section 14 below.
- 1.3 The Council has appointed a petitions officer, who will receive petitions and from whom further information and advice can be obtained. You can contact the petitions officer by e-mail: [governance@lbhf.gov.uk](mailto:governance@lbhf.gov.uk), or by post at: Petitions Officer, Governance & Scrutiny, Hammersmith Town Hall, King Street, London, W6 9JU.

### 2. PRINCIPLES

- 2.1 The Council welcomes petitions, either in paper form (see the form at the end of this document) or submitted via e-mail or through our e-petitions online facility. We accept petitions as a way in which people can let us know of their concerns and the degree of local support for what we do. We have agreed special procedures to ensure that all valid petitions are reported to an appropriate body within the Council.
- 2.2 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. Valid petitions, whether received by post, by hand, by e-mail or submitted in person or via our e-petitions online facility, will be accepted in accordance with this Scheme.
- 2.3 A petition can be open for signature up to a maximum of 90 days, unless an extension is agreed with the petition organiser; most will be responded to much sooner.

### 3. WHO CAN SUBMIT A PETITION?

- 3.1 Anybody who lives, works or studies in the borough may organise, submit or sign a petition.

### 4. WHAT ARE THE GUIDELINES FOR SUBMITTING A PETITION?

- 4.1 A valid petition submitted to the Council must:
  - Relate to something which is the Council's responsibility, or which the Council has some influence over – the Council has close working relationships and, often, partnership agreements, with a wide range of

public organisations operating in the borough and across London. These organisations include the Hammersmith and Fulham Primary Care Trust, the local emergency services, the West London Waste Authority, and Transport for London as it operates in the borough.

- Be a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- Have the names, addresses and signatures of the people who support the petition (name, address and valid e-mail address if the petition is submitted via e-mail or via the E-petition facility). The address might be a residential, work place or study location within the borough, with a valid postcode.
- Meet defined thresholds for numbers of signatures of people who live, work or study in the borough. (See section 9 below).
- Contain contact details, including an address, of 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 placed on our website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.
- Not, in the Council's opinion, be vexatious, abusive or otherwise inappropriate.
- Not relate to planning or licensing decisions or to any other matter where people have a statutory right to make comments, or to request a review or to appeal.

## 5. HOW TO SUBMIT A PETITION

5.1 Petitions may be submitted by e-mail, post, in person at the Town Hall, or through our e-petitions website. All petitions currently available for signature will be shown on our website. We reserve the right to check the validity of the addresses of anyone who signs a petition to ensure that they have a real interest in the borough.

5.2 Organisers of petitions can visit our website to submit a petition online or download the petition form. The Petitions Officer can be contacted in the following ways:

**Email:** [governance@lbhf.gov.uk](mailto:governance@lbhf.gov.uk)

**Address:**

Petitions Officer,  
Governance & Scrutiny,  
Hammersmith Town Hall,  
King Street,  
W6 9JU

5.3 We welcome e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. On receipt of details from a person wanting to sign an e-petition, we will send an e-

mail to the e-mail address provided. This e-mail will include a link which must be clicked in order to confirm the e-mail address is valid. Once this step is complete, the 'signature' will be added to the e-petition. People visiting the e-petition on our website will be able to see the names of everyone who has 'signed' it but not their contact details.

- 5.4 All petitions currently available for signature will be posted on the Council's website. The website shows what is happening to a petition as it goes through the various stages of the process set out in this scheme. It will take five working days before a petition is available on our website. This is because the content of the petition needs to be checked as to whether it is suitable, and the petitioners' names verified to ensure they have a genuine interest in the borough. It will then be made available on the website for further signatures.
- 5.5 Elected Members of the London Borough of Hammersmith and Fulham may sign a petition but will need to follow the Council's rules about declaring an interest if they are involved in decision making in response to the petition.

## **6. WHAT IS EXCLUDED FROM THE SCHEME?**

- 6.1 The following petitions will be excluded from the scheme:-
- Where a petition is considered to be vexatious, abusive or otherwise inappropriate.
  - The petition applies to a planning or licensing application, where there are already procedures to make representations.
  - The petition is a statutory petition (for example requesting a referendum on having an elected Mayor).
  - The petition concerns a matter where there is already an existing right of appeal, such as Council Tax banding and non-domestic rates, where other procedures apply.
  - The petition concerns a matter which the Council has no ability to influence (see section 11 below)
- 6.2 Invalid petitions will not be published. An explanation with the reasons for this will be sent out to the petition organiser.
- 6.3 In the period immediately before an election or referendum, the Council may need to deal with petitions differently. This is because the law requires local authorities during the period before an election or referendum to act in a way which does not appear to favour or discriminate any political party.
- 6.4 Where the petition is valid but the Council cannot publish it for some reason, we will contact the petition organiser with an explanation, and advise on how to change the petition in order to overcome the problem. If the petition is not resubmitted within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

## **7. WHAT WILL THE COUNCIL DO WHEN IT RECEIVES A PETITION?**

- 7.1 The Petitions Officer will send a valid petition to a Responding Officer in the relevant Council department. The Responding Officer will be responsible for investigating the issue and advising on the action to be taken by the Council. An acknowledgement of receipt will be sent to the person organising the petition within 10 working days of the petition having been made. Where the petition has been submitted via the E-petitions facility, the acknowledgment will also be sent to everyone who provides a valid e-mail address. The acknowledgement will say what we have done or intend to do in response to the petition. It will also be published on our website, except in cases where this would be inappropriate. The petition will be copied to the relevant Ward Councillor(s).
- 7.2 We want to ensure that petitions are clearly and effectively worded. We will therefore offer help to petition organisers to enable them to make their petitions as focused as possible, in the interests of getting a response from the Council which addresses petitioners' concerns. If we feel there are other ways of getting a quicker and more satisfactory response to the subject of the petition, we will suggest them. We may therefore contact the petition organiser about these issues before the acknowledgment is sent or afterwards.
- 7.3 If the Council can do what the petition asks for, the acknowledgement may confirm that the requested action has been taken (or will be taken by a specified date) and the petition organiser will be asked to agree to the closure of the petition, either immediately or after the specified date.
- 7.4 If the petition has enough signatures to trigger a Council debate (see paragraph 9.1 below), or the petitioners want a senior officer to give evidence (see paragraph 9.3 below), then the acknowledgement will confirm this and state when and where the meeting will take place. If the subject of the petition needs more investigation, the petition organiser will be informed of the steps the Council plans to take.

## **8. HOW WILL THE COUNCIL RESPOND TO PETITIONS?**

- 8.1 The response to a petition will depend on what the petition asks for and how many people have signed it, but may include one or more of the following:
- taking the action requested in the petition
  - considering the petition at a Council meeting
  - holding an inquiry into the matter
  - undertaking research into the matter
  - holding a public meeting
  - holding consultation
  - holding a meeting with petitioners

- referring the petition for consideration by one of the Council's Policy and Accountability Committees
- writing to the petition organiser setting out our views about the request in the petition
- resolve that the content of the petition be taken into account when reaching a decision on the relevant report.

Policy and Accountability Committees are committees of Councillors who are responsible for policy development and for scrutinising the work of the Council - in other words, they have the power to hold the Council's decision-makers to account.

## **9. TYPES OF PETITION**

### **a. Petitions for debate at Council**

- 9.1 If a petition attracts a minimum of **5,000 valid signatures** (unless it is a petition asking for a senior Council officer to give evidence at a public meeting) this will automatically trigger a debate at a full Council meeting. The full Council, a meeting which all Councillors attend to discuss major issues, will decide to take or not take the action requested in the petition, or to commission further investigation into the subject of the petition. The Council will try to consider the petition at its next scheduled meeting, although on some occasions this may not be possible; the discussion will then take place at the following meeting.
- 9.2 The petition organiser (or someone they nominate) may address the Council for no longer than five minutes on the subject of the petition. The Petitions Officer will contact the petition organiser in advance of the meeting to arrange this. Councillors will question all parties on the subject of the petition.

### **b. Petitions to call an officer to give evidence**

- 9.3 The petition may ask for the Chief Executive or an Executive Director to give evidence at a relevant Policy and Accountability Committee meeting about something for which the officer is responsible as part of their job. A minimum of **2,000 valid signatures** will be required to trigger this action. For example, the petition may ask an Executive Director to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision. The Policy and Accountability Committee may decide that it would be more appropriate for another officer to give evidence instead of the senior officer named in the petition. The Committee may also decide to call a Cabinet Member or other Councillor to attend the meeting.
- 9.4 The petition organiser (or someone they nominate) may address the Policy and Accountability Committee for no longer than five minutes on the subject of the petition. The Petition Officer will contact the petition organiser in advance of the meeting to arrange this. Policy and Accountability Committee members will question all parties on the subject of the petition.

**c. Petitions to Cabinet**

- 9.5 A petition with a minimum of **250 valid signatures** will be considered at a meeting of the Cabinet (the Council’s top decision-making body). Cabinet meets monthly (though usually not in August). The Cabinet will try to consider the petition at its next scheduled meeting, although on some occasions this may not be possible and the petition may have to be deferred to the following meeting.
- 9.6 The petition organiser (or someone they nominate) may address the Cabinet for no longer than five minutes on the subject of the petition. The Petition Officer will contact the petition organiser in advance of the meeting to arrange this. Cabinet Members will question all parties on the subject of the petition.

**d. Petitions to a Cabinet Member**

- 9.7 Petitions with a minimum of **100 signatures** will be considered by the relevant Cabinet Member(s). Each member of the Council’s Cabinet holds Executive responsibility for a specific portfolio of Council functions. A Cabinet Member may refer a petition to the full Cabinet for consideration if they are of the view that the matters raised are sufficiently significant.
- 9.8 The Cabinet Member may request a meeting with the petition organiser (or someone they nominate) to discuss the subject of the petition. The Petitions Officer will contact the petition organiser in advance to arrange this.
- 9.9 **Summary of Petition Types, Requirements and Decision Maker.**

<b>Type of Petition</b>	<b>Threshold</b> (minimum number of signatories)	<b>Decision Maker</b>
Council Debate	5,000	Full Council
Call an Officer to give evidence	2,000	Policy and Accountability Committee
Petitions to Cabinet	250	Cabinet
Petitions to Cabinet Members	100	Relevant Cabinet Member(s)

**10. NOTIFYING THE DECISION TAKEN IN RESPONSE TO A PETITION**

- 10.1 All petition organisers will be notified of the decision taken (with reasons if the decision is to take no action) within 5 working days of the decision being made. This notification will be published on our website, unless it is considered inappropriate to do so.
- 10.2 The Council accepts that it will not normally be sufficient for a decision maker to merely “note” a petition. The response to a petition will normally provide information on the steps the Council intends to take to address the concerns

of the petitioners or reasons why their concerns cannot be addressed in the way they wish.

**11. WHAT WILL THE COUNCIL DO IF THE PETITION IS NOT DIRECTLY RELATED TO SERVICES PROVIDED BY IT?**

- 11.1 If the petition is about something which the Council has no power to influence, we will consider making representations on behalf of the community to the relevant body. In such cases, the Petitions Officer will ask the petition organiser whether they wish the Council to send the petition to the relevant authority if this is possible.
- 11.2 However, in many cases where the Council is not directly responsible for the matter which is the subject of the petition, it may work closely (or have formal partnership arrangements) with the body that is responsible (see para. 4.1 above). In this case, the decision maker may refer the matter to a Policy and Accountability Committee which will invite representatives of the relevant body to attend while the petition is considered.
- 11.3 If the petition is about something that a different Council is responsible for, the Council will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event the Council will notify the petition organiser of the action taken.

**12. WHAT CAN PETITIONERS DO IF THEY ARE NOT SATISFIED WITH THE RESPONSE TO A PETITION?**

- 12.1 If the petitioners are not satisfied with the Council's decision in response to a petition, the petition organiser can request the Finance, Commercial Revenue and Contracts Policy & Accountability Committee to review whether the Council's decision is adequate, by e-mailing or writing to the Petitions Officer. This should be done within 28 days of the Council's response being received by the petition organiser, who should provide a short explanation of the reasons why the Council's response to the petition was not considered to be adequate.
- 12.2 The Finance, Commercial Revenue and Contracts Policy & Accountability Committee will call for a report from officers on the request for a review of the Council's decision, and will endeavour to consider the request at its next scheduled meeting; on some occasions this may not be possible and consideration will be deferred to the following meeting. Should the Finance, Commercial Revenue and Contracts Policy & Accountability Committee determine the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the full Council.
- 12.3 The petition organiser (or someone they nominate) may address the Finance, Commercial Revenue and Contracts Policy & Accountability Committee for no

longer than five minutes on the subject of the petition. The Petitions Officer will contact the petition organiser in advance of the meeting to arrange this. Committee members will question all parties on the subject of the petition.

- 12.4 The petition organiser will be informed of the results of the Finance, Commercial Revenue and Contracts Policy & Accountability Committee's review of the Council's decision on the petition, with reasons as to why no action or any further action is recommended, within 5 working days of the Committee's meeting. This notification will be published on our website, unless it is considered inappropriate to do so.

### **13. ATTENDING A MEETING WHERE A PETITION IS BEING CONSIDERED**

- 13.1 A petition may be considered at a formal meeting of the full Council, Cabinet or Policy and Accountability Committee.

#### **13.2 Receiving of petitioners at a formal meeting**

- (i) People who have signed a petition may attend a meeting where the petition is being considered. The petition organiser will be given adequate notice of the date and time of the meeting.
- (ii) The petition organiser (or one person nominated by them) may address the meeting for a period not exceeding 5 minutes.
- (iii) Members may during a period not exceeding 10 minutes ask questions of a petition organiser (or nominee) if required.
- (iv) Members may then invite officers of the Council and/or representatives of other relevant authorities to comment on the subject of the petition.
- (v) The Committee will then debate the subject of the petition for a maximum of 30 minutes, taking into account the issues raised by the petitioners, officers and representatives of other relevant authorities. Petitioners may remain for the duration of the debate if they so wish.

#### **13.3 Limitation on the number of petitioners attending a formal meeting**

The Chair of the meeting reserves the right to limit the number of petitioners present at a meeting to maintain order and/or to allow sufficient time for other business specified on the agenda.

### **14. ANNUAL REPORT ON THE OPERATION OF THE SCHEME**

- 14.1 The Council will receive an annual report detailing the subject matter of all petitions received during the year, the number of signatures to each petition and a summary of the Council's response to each. Changes to the Scheme will be recommended as necessary in the light of experience with its operation.

## **Access to Information Procedure Rules**

### **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council, Policy and Accountability Committees, Area Committees (if any), Regulatory Committees and Panels, and public meetings of the Executive (together called meetings).
- 1.2 Certain rules also apply to Executive decisions taken by individual members of the Executive.

### **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 or specified elsewhere in this Constitution (See Council Procedure Rules).

### **4. NOTICES OF MEETING**

- 4.1 Subject to Rule 13 in relation to meetings of the Executive and its Committees, the Council will give at least **five clear days'** notice of any public meeting (defined as meaning working days, and excluding the day of publication of the agenda and the day of the meeting, weekends and bank holidays) by posting details of the meeting on the Council's website.

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

- 5.1 Subject to Rule 15 in relation to meetings of the Executive and its Committees, the Council will make copies of the agenda and those reports open to the public available for inspection on the Council's website at least five clear days before the meeting. If an item is added to an agenda later, the revised agenda will be open to inspection from the time the item is added to the agenda. Where reports already included on an agenda are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.
- 5.2 The proper officer may exclude from the copy of any report made available for public inspection any part which, in the proper officer's opinion, relates to matters likely to be considered in a private meeting.

## **6. SUPPLY OF COPIES**

6.1 The Council will make available at all meetings referred to in Rule 1 copies of the relevant agenda and reports (except those which will be considered in private) for use by the public.

6.2 The Council will also supply copies of:

- (i) any agenda and reports which are open to public inspection;
- (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (ii) if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

to any person on payment of a charge for copying, postage and any other costs.

## **7. ACCESS TO DOCUMENTS AFTER THE MEETING**

7.1 The Council will make available for public inspection the following for a period of at least six years after a meeting:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was held in private or which disclose exempt or confidential information;
- (b) a summary of any proceedings held in private 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.

7.2 These documents will be available on the Council's website for inspection or printing by members of the public, or for supply by post as requested, on payment of postage, copying or other relevant charges.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

8.2 The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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 not including published works or those which disclose exempt or confidential information (as defined in Rule 10 below) and, in respect of reports for decision by the Executive or individual members thereof, the advice of a political adviser.

### **Public inspection of background papers**

- 8.2 The Council 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.
- 8.3 In the case of decisions made at a meeting of the Executive or its Committees, background papers (apart from those which disclose exempt or confidential information as defined in Rule 10) will be available for inspection by members of the public at least five clear days before the meeting, or at the time when the meeting is convened if this is at shorter notice.
- 8.4 Background papers will be made available for public inspection via the Council's website, or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

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

- 9.1 A summary of the public's rights to attend meetings and to inspect and copy documents will be available on the Council's website.

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

### **Confidential information – requirement to exclude public**

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

### **Exempt information – discretion to exclude public**

- 10.2 The public may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed provided that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The public may also be excluded from meetings where, as a result of disruption caused by them, the meeting is unable to properly discharge its functions.
- 10.3 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 of the Human Rights Act.
- 10.4 The meeting will pass a resolution to exclude the public during discussion of items which are confidential or exempt. The resolution will identify why such

items are to be treated as confidential or exempt in accordance with Rules 10.5 and 10.6 below.

### **Meaning of confidential information**

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

### **Meaning of Exempt Information**

- 10.6 Exempt information means information falling within any of the 7 categories of exempt information specified below (and subject to any qualifications detailed thereon), as may be amended from time to time by regulations:

#### **Access to Information Act**

#### **Exempt Categories of Information – Schedule 12a, Local Government Act 1972**

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

#### **Qualifications:**

- 10.7 Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it requires to be registered under:
- (a) The Companies Act 1985,
  - (b) The Friendly Societies Act 1974,
  - (c) The Friendly Societies Act 1992,
  - (d) The Industrial & Provident Societies Act 1965 to 1978,
  - (e) The Building Societies Act 1986, or
  - (f) The Charities Act 1993.

10.8 Information is not exempt information if it relates to proposed development for which the local Planning authority may grant itself Planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

10.9 Information which –

(a) falls within any of categories in 1 - 7 of paragraph 10.6 above; and

(b) is not prevented from being exempt by virtue of paras.10.7 or 10.8

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

11.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports (or parts of reports) which in their opinion relate to items during which, in accordance with Rule 10 above, the meeting is likely to be held in private. Such reports (or parts thereof) will be marked "Not for publication", together with the category of information likely to be disclosed as set out in Rule 10. Reports which are marked "draft" are not open to public access.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

12.1 Rules 13 – 24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a Key Decision then it must also comply with Rules 1 – 11 unless Rule 16 (General Exception) or Rule 17 (Special Urgency) apply. A Key Decision is as defined in Article 12.3 of this Constitution.

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

13.1 Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), a Key Decision may not be taken unless:

(a) a notice (called here a Key Decisions list) has been published on the Council's website in connection with the matter in question stating:

(i) the matter in respect of which a Key Decision is to be made; and

(ii) the date on which the Key Decision is to be made; and

(iii) the names of the members of the Executive making the Key Decision; and

(iv) a list of documents to be submitted in relation to the Key Decision as set out in Rule 8 and how copies of such documents and other relevant documents (if not exempt) can be obtained.

- (b) at least 28 calendar days have elapsed since the publication of the Key Decisions list (not including the day of publication or the day the decision is to be taken); and
- (c) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings); or, if the meeting is convened at shorter notice, at the time that the meeting is convened.

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

14.1 In accordance with Article 3 - 1.3(b) of this Constitution, the Executive and its Committees may take a decision at a private meeting only if:

- (a) a notice has been published on the Council's website setting out the reasons why the meeting is to be held in private, and at least 28 calendar days have elapsed since the publication of the notice (not including the day of publication or the day the decision is to be taken); and
- (b) at least 5 clear days have elapsed since the publication of a further notice on the Council's website setting out the reasons why the meeting is to be held in private, details of any representations received by the Council about why the meeting should be open to the public, and the Council's response to any such representations.

14.2 If the date by which a private meeting must be held makes compliance with 14.1 above impracticable, the decision may only be taken if:

- (a) the Chair of the body making the decision obtains the agreement of the Chair of a relevant Policy and Accountability Committee that the meeting is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Policy and Accountability Committee, or if the Chair of each relevant Policy and Accountability Committee is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor, will suffice; and
- (b) a notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred is published on the Council's website as soon as reasonably practicable after such agreement has been obtained.

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

15.1 If a meeting of the Executive or its Committees is convened at shorter notice than specified in Rule 4, the Council will make copies of the agenda and reports open to the public available for inspection on the Council's website from the time the meeting is convened.

#### **16. GENERAL EXCEPTION**

- 16.1 If a matter which is likely to be a Key Decision has not been included in the Key Decisions list, then subject to Rule 17 (Special Urgency), the decision may still be taken if:
- (a) the proper officer has informed the Chair of a relevant Policy and Accountability Committee, or if there is no such person, each member of that Committee, in writing, by notice, of the matter about which the decision is to be made and the reason why the matter should be classified as urgent;
  - (b) the proper officer has made copies of that notice available to the public on the Council's website, stating why the requirements of Rule 13 cannot be complied with; and
  - (c) at least 5 clear days have elapsed since the proper officer complied with (b).

Where such a decision is taken collectively, it must be taken in public.

## **17. SPECIAL URGENCY**

- 17.1 If by virtue of the date by which a decision must be taken Rule 16 (General Exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual), or the Chair of the body making the decision:
- (a) obtains the agreement of the Chair of a relevant Policy and Accountability Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Policy and Accountability Committee, or if the Chair of such relevant Policy and Accountability Committee is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor, will suffice; and
  - (b) the proper officer makes available on the Council's website a notice setting out why the decision is urgent and cannot reasonably be deferred.
- 17.2 The Leader will submit quarterly reports to the Council on the Executive decisions which have been taken in the circumstances set out in this Rule during the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **18. POLICY AND ACCOUNTABILITY COMMITTEES' POWERS IN RELATION TO THE EXECUTIVE**

### **When a Policy and Accountability Committee can require a report**

- 18.1 If a Policy and Accountability Committee thinks that a Key Decision has been taken which was not:
- (a) included in the Key Decisions list; or
  - (b) the subject of the general exception procedure; or
  - (c) the subject of an agreement with a relevant Policy and Accountability Committee Chair, or the Mayor, or in their absence, the Deputy Mayor, under Rule 17;
- 18.2 the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the proper officer, who shall require such a report on behalf of the Committee when so requested by majority vote. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Policy and Accountability Committee.

### **Executive's report to Council**

- 18.3 The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

## **19. RECORD OF EXECUTIVE DECISIONS**

- 19.1 After any meeting of the Executive or any of its Committees, whether held in public or private, the proper officer, or where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision, details of any alternative options considered and rejected at that meeting, a record of any conflict of interest in relation to the decision and any note of dispensation granted by the Head of Paid Service.

## **20. RECORD OF DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

- 20.1 As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive, they will prepare, or instruct the proper officer to prepare, a record of the decision and the reasons for it, details of any alternative options considered and rejected in making the

decision, a record of any conflict of interest declared by any other member of the Executive who is consulted by the Executive member in relation to the decision, and any note of dispensation granted by the Head of Paid Service.

- 10.2 The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Executive. This does not require the disclosure of exempt or confidential information.

## **21. INSPECTION OF DOCUMENTS RELATING TO EXECUTIVE DECISIONS AND DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

- 21.1 The proper officer will make available for public inspection the records described in Rules 19 and 20, together with those reports relating to Executive Decisions and decisions made by individual members of the Executive (apart from those which disclose exempt or confidential information as defined in Rule 10).
- 21.2 These records and reports will be made available via the Council's website or at Hammersmith Town Hall during normal business hours for printing by members of the public or for supply by post as requested, on payment of postage, copying or other relevant charges.

## **22. POLICY AND ACCOUNTABILITY COMMITTEES' ACCESS TO DOCUMENTS**

### **Rights to copies**

- 22.1 Subject to Rule 23.2 below, a Policy and Accountability Committee (including its sub-committees or Panels) will be entitled within 10 clear working days of making the request to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to
- (a) any business transacted at a public or private meeting of the Executive or its Committees; or
  - (b) any decision taken by an individual member of the Executive.

### **Limit on rights**

- 22.2 A Policy and Accountability Committee will not be entitled to:
- (a) any document that is in draft form;
  - (b) any document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise as part of a forward programme of work; or
  - (c) any document containing the advice of a political adviser.
- 22.3 In cases where a document or part of a document is withheld from a member of a Policy and Accountability Committee for the reasons set out in (b) or (c)

above, the members of the Policy and Accountability Committee will be provided with the reasons in writing.

## **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **Material relating to current and previous business**

- 23.1 Subject to Rule 23.2, all Members will be entitled to inspect any document which relates to any business to be considered at a meeting of the Executive or its Committees at least five clear days before the relevant Executive meeting, with the exception of any document which contains the advice of a political adviser. Where the meeting is convened at shorter notice, such documents will be available for inspection when the meeting is convened. Where reports already included on an agenda are prepared after the summons has been sent out, the proper officer shall make each such report available to members or as soon as the report is completed.

### **Material relating to Executive Decisions taken in private**

- 23.2 All members will be entitled to inspect any document which contains material relating to any key decision considered at a private meeting (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.
- (a) it contains exempt information falling within paragraphs 1, 2, 3, (only to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) 4 and 7, of the categories of exempt information set out in Rule 10.4; or
  - (b) it contains the advice of a political adviser.

### **Material relating to decisions made by individual members of the Executive**

- 23.3 All members will be entitled to inspect any document which contains material relating to any decision made by an individual member of the Executive (except those available only in draft form) within 24 hours of the decision being made, unless either (a) or (b) below applies.
- (a) it contains exempt information falling within paragraphs 1,2,3, (only to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) 4 and 7, of the categories of exempt information set out in Rule 10.6; or
  - (b) it contains the advice of a political adviser.

### **Members' Common Law Rights to information**

- 23.4 In addition to the above provisions, a member may be entitled at common law to have access to information held by the Council in order to carry out his or

her duties as a member. Requests for documents under this paragraph shall be made in writing to the relevant Chief Officer and specify:

- (i) the documentation requested;
- (ii) the reason for requesting the documentation and the uses to which it will be put; and
- (iii) where the request is urgent, the reason for urgency.

23.5 If the Chief Officer is satisfied that the member is entitled to inspect the documentation, they will as soon as reasonably practicable provide the member with a copy of the document, or if it is impracticable to do so, allow the member to inspect the original.

23.6 If the Chief Officer is of the view that the member is not entitled to the document, then they shall refer the request to the Monitoring Officer, whose decision shall be final.

### **Freedom of Information Act 2000**

23.7 Members also share the same rights of access to information as members of the public under the Freedom of Information Act 2000. A request for information under the Act must:

- Be in writing (electronic requests are acceptable)
- Contain a name and address for correspondence
- Describe the information requested

23.8 The Council will comply with all requests for information under the Act unless one or more of the statutory exemptions apply.

### **Confidentiality and restrictions on the use of information**

23.9 Members who receive information from the Council have a responsibility to deal with the information in a responsible manner. Members must be alert to whether the information is confidential. Members should not use information obtained in the course of their official duties and which is not public information, apart from for the specific purpose of fulfilling their work as a member.

## **Budget and Policy Framework Procedure Rules**

### **1. The framework for Executive decisions**

- 1.1 The Council will be responsible for the adoption of its Budget and Policy Framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

### **2. Process for developing the framework**

The process by which the Budget and Policy Framework shall be developed is:

- 2.1 After consulting stakeholders in a manner appropriate to the matter under consideration, the Executive will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up the proper officer will serve copies of them on the Chairs of relevant Policy and Accountability Committees together with dates when the Executive will consider them further, which shall be at least 6 weeks after service of the notice on the Chairs.
- 2.2 The Policy and Accountability Committee will consider the plan, strategy or budget at its next meeting and decide whether to respond to the Executive's initial proposals and whether any consultation by it is appropriate. If so, the Policy and Accountability Committee will conduct a consultation exercise and will reflect any representations made to it in its response to the Executive within the timescale set for decision by the Executive.
- 2.3 The Executive will finalise its proposals for the Council to consider having taken into account the comments from the Policy and Accountability Committee. The report to Council will show the Executive's response to those comments.
- 2.4 Where the Executive has submitted a draft plan or strategy and the Council has objections to it, the Council must, before amending, approving or adopting it, notify the Leader of its objections and give to him or her instructions requiring the Executive to reconsider the plan or strategy in the light of those objections.
- 2.5 Where the Council gives the Leader instructions under paragraph 2.4 it must specify a period of at least 5 working days beginning on the day after the date the Leader receives the instructions during which the Executive may either:
- a) submit a revised plan or strategy together with its reasons for any amendments to the Council for its reconsideration; or
  - b) inform the Council of any disagreement it has with any of the Council's objections specifying its reasons.
- 2.6 When the period specified in paragraph 2.5 has expired the Council must take into account any amendments included in the revised plan or strategy, the

Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reason for that disagreement submitted to the Council within the period specified when:

- a) amending the draft plan or strategy;
- b) approving the plan or strategy for submission to the Secretary of State or Minister of the Crown;
- c) adopting the plan or strategy with or without modification.

2.7 Where before 8 February in any financial year the Executive submits to the Council:

- a) estimates of amounts in making any calculation in accordance with sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
- b) estimates of such a calculation; or
- c) amounts required to be stated in a precept under Part I of the Local Government Finance Act 1982,

and following the consideration of those estimates or amounts the Council has any objections to them it must before making a calculation or issuing a precept notify the Leader of its objections and give to him or her instructions requiring the Executive to reconsider those estimates or amounts in the light of those objections and in accordance with the Council's requirements.

2.8 Where the Council gives the Leader instructions under paragraph 2.7 it must specify a period of at least 5 working days beginning on the day after the date the Leader receives the instructions during which the Executive may either:-

- a) submit a revision of those estimates or amounts together with its reasons for any revision to the Council for its reconsideration; or
- b) it may inform the Council of any disagreement it has with any of the Council's objections specifying its reasons.

2.9 When the period specified in paragraph 2.8 has expired, the Council must take into account any amendments made to the estimates or amounts, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the Council's objections and the Executive's reason for that disagreement submitted to the Council within the period specified when making calculations or issuing a precept under the provisions set out in paragraph 2.7.

2.10 Paragraphs 2.7 to 2.9 shall not apply in relation to calculations in accordance with section 52(I), 52(J), 52(T) or 52(U) or amounts stated in a precept issued to give effect to calculations under section 52(J) or 52(U) of the Local Government Finance Act 1992.

- 2.11 The Council shall make its final decision on the matter on the basis of a simple majority. The decision shall be made in public in accordance with Article 4, and shall be implemented immediately.

### **3. Decisions outside the Budget or Policy Framework**

- 3.1 The Executive, committees of the Executive, individual members of the Executive and any officers, Area Committees or Joint arrangements discharging Executive functions may only take decisions which are 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 full Council, then that decision may only be taken by the Council, subject to 4 below.
- 3.2 If the Executive, committees of the Executive, individual members of the Executive and any officers, area committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief 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 the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. Urgent decisions outside the Budget or Policy Framework**

- 4.1 The Executive, a committee of the Executive, an individual member of the Executive or officers, area committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- a) if it is not practical to convene a quorate meeting of the full Council;  
and
  - b) if the Chair of a relevant Policy and Accountability Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Policy and Accountability 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 a relevant Policy and Accountability Committee the consent of the Mayor or, in the absence of both, the Deputy Mayor, will be sufficient.

- 4.2 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.

## **5. In-year changes to policy framework**

- 5.1 The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, a committee of the Executive an individual member of the Executive or officers, area committees or joint arrangements discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals, except by referral to the full Council. The process and limits of authority of decision-takers in respect of amendments to capital and revenue budgets are set out in the Council's Financial Regulations.

## **6. Call-in of decisions outside the budget or policy framework**

- 6.1 Where a Policy and Accountability Committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 6.2 In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Policy and Accountability Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 6.3 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 Policy and Accountability 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 the Council has met and considered the matter. The Council shall consider the request of the Policy and Accountability Committee at its next meeting. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may EITHER:
- a) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;
- OR
- b) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual

responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way;

OR

- c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Finance Officer.

## Executive Procedure Rules

### 1. HOW DOES THE EXECUTIVE OPERATE?

#### 1.1 Who may make Executive decisions?

Executive functions may be discharged by:

- the Executive (Cabinet) as a whole (the Cabinet);
- a Committee of the Executive;
- an individual member of the Executive (Leader, Deputy Leader or Cabinet Members);
- an officer;
- an area committee (not currently included in this Constitution);
- joint arrangements; or
- another local authority.

#### 1.2 Delegation by the Council

At the annual meeting of the Council and at other meetings of the Council as necessary, the Council will receive a report from the Leader about the delegation of executive functions which they have determined for inclusion in the Council's Scheme of Delegation at Part 3 of the Constitution. The document will contain the following information about Executive functions in relation to the coming year:

- the names of the other Councillors appointed to the Executive (Cabinet) by the Leader;
- the extent of any authority delegated to the other Executive Members individually and collectively, including details of the limitation on their authority;
- the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### 1.3 Sub-delegation of executive functions

Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an Executive function, they may delegate further to an area committee, to joint arrangements or to an officer.

Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### 1.4 The Council's scheme of delegation of executive functions

The Council's Scheme of Delegation of executive functions as determined by the Leader will be reported annually to the Council and may only be amended by the Leader. It will contain the details required in [Article 7](#) and set out in [Part 3](#) of the Constitution.

### **1.5 Conflicts of Interest**

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

If the exercise of an executive function has been delegated to a Committee of the Executive, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the Leader. In the event of this not being possible the matter will stand referred to the Cabinet.

### **1.6 Executive meetings – when and where?**

The Executive (Cabinet) will meet at least 10 times per year at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location, or virtually, to be agreed by the Leader.

### **1.7 Public or private meetings of the Executive**

Meetings of the Cabinet shall be held in public except when matters of a confidential or exempt nature are being discussed as provided for in the Access to Information Procedure Rules set out in Part 4 of this Constitution.

### **1.8 Quorum**

The quorum for a meeting of the Executive (Cabinet), or a Committee of it, shall be 3.

### **1.9 How are decisions to be taken by the Executive?**

Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

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 THE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present they will preside. In their absence, the Deputy Leader will preside. If both are absent the Members present shall select one from their number to preside.

### **2.2 Who may attend?**

Public meetings of the Cabinet may be attended by all Councillors.

At the discretion of the Leader, non-Executive Councillors may ask questions of the Executive or individual Cabinet members in respect of business on the

agenda, but do not otherwise have the right to participate, move amendments or make other comment. The Leader may, at his discretion, allow any Councillor to remain during the discussion of confidential or exempt information where there are reasonable grounds for doing so.

Members of the public may attend public meetings of the Executive and, where they have organised a deputation in relation to an item of business on the agenda, may speak and ask questions in accordance with the deputation procedures set out in Appendix B of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution. Requests for deputations must be made at least 3 working days before the relevant meeting of the Executive.

### **2.3 What business?**

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

- a) consideration of the minutes of the last meeting;
- b) declarations of interest, if any;
- c) matters referred to the Executive (whether by a Policy and Accountability 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 4 of this Constitution;
- d) consideration of reports from Policy and Accountability Committees;
- e) consideration of any petitions made to the Cabinet under the Petitions Scheme in Part 4 of this Constitution;
- f) consideration of any deputations made to the Cabinet under the arrangements at Appendix B of the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution;
- g) matters set out in the agenda for the meeting, and which shall indicate
  - which are Key Decisions;
  - which are non-key decisions where an Executive member has elected not to undertake the decision or has been unable to;
  - which are not in accordance with the Access to Information procedure rules set out in Part 4 of this Constitution.
- h) a report on the Key Decisions list.

### **2.4 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 consultation with stakeholders and relevant Policy and Accountability Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.5 Who can put items on the Executive agenda?**

The Leader will decide upon the schedule for the meetings of the Executive. They may put on the agenda of any Executive meeting any matter which they wish, whether or not authority has been delegated to the Executive, a Committee of it or any Member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

Any member of the Executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If they receive such a request the proper officer will comply.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant Policy and Accountability Committee or the full Council have resolved that an item be considered by the Executive.

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

## **Overview and Scrutiny Procedure Rules**

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

- 1.1 The Council will appoint Overview and Scrutiny Committees (referred to as Policy and Accountability Committees in Hammersmith and Fulham) as set out in Article 6 of this Constitution. The Council will appoint Members to them, as it considers appropriate from time to time, in accordance with Rules 7 and 29 below.

### **2. Who may sit on Overview and Scrutiny Committees?**

- 2.1 All Councillors (except members of the Executive, i.e. the Leader and other Cabinet members) may be members of Policy and Accountability Committees. However, no other Member may be involved in scrutinising a decision in which they have been directly involved.

### **3. Co-optees**

- 3.1 Policy and Accountability Committees may co-opt additional members (who may be paid an annual allowance) in a non-voting capacity to ensure residents and users' groups are fully represented. The number of co-opted members shall be determined by the Council. Only statutory co-optees will have voting rights. All co-opted members will be able to participate fully in all meetings and have the same access to information as elected Members.
- 3.2 A co-optee must stand down if they fail to attend meetings of an Overview and Scrutiny Committee of which they are a member for a period of 6 consecutive months.

### **4. Education representatives**

- 4.1 The Children and Education Policy and Accountability Committee shall include in its membership the following voting representatives, who will be entitled to vote on any education matters. These representatives shall not vote on any other matters, though they may stay in the meeting and speak.
- (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative;
  - (c) 2 parent governor representatives.

- 4.2 Education Representatives may also attend and vote at any other Policy and Accountability Committee that is dealing with education matters.

### **5. Meetings of Overview and Scrutiny Committees**

- 5.1 All meetings of Policy and Accountability Committees will be scheduled in the Council's Calendar. In addition, extraordinary meetings may be called from

time to time if considered necessary and appropriate by the Chair of the relevant Committee, in consultation with the Chief Whip.

- 5.2 A Chair of a Committee may cancel a meeting on the grounds of insufficient business, in consultation with the Chief Whip.
- 5.3 Subject to the provisions of Section 100(A) of the Local Government Act 1972:
- a) The Chair of a Committee may vary the date and time of a meeting only after consultation with the Chief Whip.
  - b) The Opposition Whip shall be notified immediately of any changes.

## **6. Quorum**

- 6.1 The quorum for a Policy and Accountability Committee shall be three Councillor Members of the Committee.
- 6.2 If a quorum is not present 15 minutes after the start time of a meeting, the business shall be adjourned to a date to be arranged.
- 6.3 If a quorum is lacking at any time during a meeting then it shall be suspended for up to 15 minutes after which, if a quorum is not achieved, the remaining business is lost. This provision does not prevent a member of a Policy and Accountability Committee requesting that any item be included on a future agenda, in accordance with paragraph 10 below.

## **7. Who Chairs meetings of Overview and Scrutiny Committees?**

- 7.1 The Chair and all the Members of Policy and Accountability Committees shall be appointed by the Full Council.
- 7.2 The Members of each Policy and Accountability Committee shall elect a Vice Chair from among the Committee's membership.
- 7.3 In the absence of the Chair of a Committee, the Vice-Chair shall take the chair and shall have a second or casting vote. In the absence of both the Chair and Vice-Chair, the Members present shall elect a Chair for the meeting from among the Members then present, who shall have the second or casting vote. If the Chair or Vice-Chair subsequently attends the meeting, the person then in the chair shall vacate it.
- 7.4 The Chair of the Committee shall have responsibility for maintaining order at the meeting in accordance with the guidelines for Councillors, good practice, and the Council Procedure Rules in Part 4 of this Constitution.
- 7.5 The order of business shall be determined by the Chair.

## **8. Sub-Committees and Task Groups**

- 8.1 Policy and Accountability Committees shall have the power to appoint Sub-Committees or ad-hoc, time-limited Task Groups to investigate and report on specific issues within the remit of any Policy and Accountability Committee. The Members of a Sub-Committee or Task Group shall be non-Executive Councillors.
- 8.2 Each Sub-Committee or Task Group shall report to the Policy and Accountability Committee which established it. Its terms of reference will be set by the relevant Policy and Accountability Committee.
- 8.3 A Sub-Committee or Task Group shall have no fewer than 3 elected Members, appointed by the relevant Policy and Accountability Committee. Its Chair and Vice Chair shall be appointed by the Sub-Committee or Task Group Members, taking account of the expertise, experience and interest of the available Councillors. A Sub-Committee or Task Group shall have the power to co-opt up to a maximum of two members in a non-voting capacity who are not elected Councillors.
- 8.4 The Access to Information Procedure Rules in Part 4 of this Constitution do not apply to Sub-Committees or Task Groups unless the Sub Committee or Task Group agrees a motion to the contrary.
- 8.5 In considering whether to establish a Sub-Group or Task Group, Policy and Accountability Committees will have regard to:
  - a) The importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities, the implementation of its policies or other key issues that affect the wellbeing of the community;
  - b) The potential benefits of a review, particularly the likelihood of improvements in the quality of Council services or those of partner organisations;
  - c) The alternative mechanisms available to deal with the matter and the extent to which any work undertaken by the Overview and Scrutiny function may duplicate existing activity;
  - d) The extent to which officer, Member and relevant stakeholder capacity is sufficient to support the work of a Sub-Committee or Task Group;
  - e) The timeliness of the review work; and
  - f) The clarity of the scope and objective of the proposed review.

## **9. Work programme**

- 9.1 Each Policy and Accountability Committee will maintain a work programme of policies and issues identified by the Committee members to be investigated, analysed and understood prior to making recommendations to decision-makers. Policy and Accountability Committees may receive evidence from experts and user groups either in writing in advance or verbally at meetings.

Sub-Committees and Task Groups will be provided with their schedules of work by the relevant Policy and Accountability Committee.

## **10. Agenda items**

- 10.1 Any Councillor shall be entitled to give notice to the proper officer that they wish to place on the agenda of the relevant Policy and Accountability Committee an issue which is a local government matter in accordance with the procedure at Appendix A (Councillor Call for Action).
- 10.2 Any member of a Policy and Accountability Committee shall be entitled to give notice to the Proper Officer that they wish for an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of that Committee in accordance with the Councillor Call for Action procedure (Appendix A).
- 10.3 On receipt of such a notice, the proper officer will assess whether it is validly submitted and complies with the guidance issued by the Secretary of State. If they are satisfied that it is valid, they shall arrange for investigation and submission of an initial report on the matter for consideration by the relevant Policy and Accountability Committee.
- 10.4 Policy and Accountability Committees shall also respond, as soon as their work programme permits, to requests from the Council and from the Executive to review particular areas of Council activity. Where they do so, the Policy and Accountability Committees shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall normally consider the report of the Policy and Accountability Committee within one month of receiving it.

## **11. Policy Development and Review**

- 11.1 The role of the Policy and Accountability Committees 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 in Part 4 of this Constitution.
- 11.2 In relation to the development of the Council's other policies, the role of Policy and Accountability Committees is set out in Article 6 in Part 2 of the Constitution.
- 11.3 Policy and Accountability Committees may hold inquiries and investigate the available options for future direction in policy development as the basis of recommendations to the Executive. They may appoint advisers and expert witnesses to assist them in this process. They may undertake site visits, conduct public surveys, hold public meetings, commission research outside formal meetings 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 advisers and witnesses a reasonable fee and expenses for doing so.

## **12. Voting at Overview and Scrutiny Committees**

- 12.1 In the event of a vote:
- (a) Voting shall be by simple majority by show of hands.
  - (b) Voting members may request that their votes be recorded.
  - (c) In the event of an equality of votes the Chair shall have a second or casting vote.

## **13. Reports from Overview and Scrutiny Committees**

- 13.1 Once it has formed recommendations on any matter, a Policy and Accountability Committee may prepare a formal report and submit it for consideration by the Executive (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework). The Committee may wish to send its recommendations to the Executive or to the Council on the matter if it prefers.
- 13.2 If a Policy and Accountability Committee cannot agree on one single final report to the Council or Executive on proposals on any matter as referred to in 13 (a) above, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- 13.3 The Council or Executive shall consider the report of the Policy and Accountability Committee normally within 8 weeks of it being submitted.
- 13.4 If the matter is referred to Council, the Leader will be served with notice and the Executive will have 6 weeks in which to respond to the Policy and Accountability Committee report. The Council shall not consider it within that period. When the Council does meet to consider any referral from a Policy and Accountability Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Executive to the Policy and Accountability Committee proposals.
- 13.5 Where a Policy and Accountability Committee prepares a report for consideration by the Executive in relation to a matter where the Leader has delegated the decision to a Member or officer, the Policy and Accountability Committee will submit a copy of their report to the Member or officer for consideration. The Member or Officer with delegated decision making power must consider the report and respond in writing to the Policy and Accountability Committee at the next ordinary meeting following receipt. The Member or officer may be asked to attend the meeting of the Policy and Accountability Committee to present their response.
- 13.6 All Councillors will in any event have access to the Key Decisions list and timetable for decisions and intentions for consultation. At the stage when the Executive makes firm proposals and a provisional decision, in the form of a

written and published decision on any matter, it will become available for call-in in accordance with the Council's decision-making process. Such reports will be placed by the proper officer on the agenda for the next meeting of the relevant Policy and Accountability Committee, subject to the access to information provisions.

- 13.7 Each Sub-Committee and Task Group shall submit its reports to the Policy and Accountability Committee which established it.

#### **14. Rights of Policy and Accountability Committee Members to Documents**

- 14.1 In addition to their rights as Councillors, members of Policy and Accountability Committees and their Sub-Committees and Task Groups have the additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

- 14.2 Nothing in this paragraph prevents more detailed liaison between the Executive and Policy and Accountability Committee and their Sub-Committees and Task Groups as appropriate, depending on the particular matter under consideration.

#### **15. Breach of the Access to Information provisions by the Executive**

- 15.1 If a Policy and Accountability Committee thinks that a Key Decision has been taken which was not:
- a) included in the Key Decisions list or
  - b) the subject of the general exception procedure (i.e. Rule 16 of the Access to Information Procedure Rules); or
  - c) under the special urgency procedures (i.e. Rule 17 of the Access to Information Procedure Rules) the subject of an agreement with a relevant Policy and Accountability Committee Chair, or in their absence, the Mayor/Deputy Mayor of the Council, the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee and may be raised by resolution passed at a meeting of the relevant Policy and Accountability Committee.

#### **16. Members and officers giving account**

- 16.1 Any Policy and Accountability Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the overview and scrutiny role, a Committee may compel Council officers and Executive members to attend meetings as required and can expect to receive written evidence as requested to assist the Committee in developing policy or to explain in relation to matters within its 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.

It is the duty of those persons to attend if so required.

- 16.2 In cases where a petition, submitted in accordance with the Council's Petitions Scheme (see Rule 24 below), asks for the Chief Executive or a Director to give evidence at a Policy and Accountability Committee meeting, it is the duty of those persons to attend if so required. The Policy and Accountability Committee may decide that it would be more appropriate for another officer to give evidence instead of the officer named in the petition.

## 17. Attendance by others

- 17.1 A Policy and Accountability Committee may request people other than those people referred to in Rule 16 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.
- 17.2 In undertaking the scrutiny of local health bodies, as described in Article 6 of this Constitution, a Policy and Accountability Committee may require senior representatives of those bodies to address it, discuss issues of local concern and/or answer questions. It is the duty of those persons to attend if so required.

## 18. Call-in

- 18.1 These call-in provisions apply only to **Key Decisions** as defined in Article 12.
- 18.2 Any key decision may be called-in. The power in this paragraph is in addition to the power in paragraph 6 of the Budget and Policy Procedure Rules which deals with decisions by the Executive which are outside the budget and policy framework fixed by the Council and the general power to scrutinise under Article 6 of this Constitution.
- 18.3 Where a Key Decision is made by the Executive, the decision shall be published on the Council's website no later than 5.30pm on the second working day after the decision was made (not including the day of the decision). All Councillors will be sent copies of the published decision within the same timescale by the person responsible for publishing the decision.
- 18.4 The published decision will bear the date on which it is published, and will specify that the decision will come into force and may be implemented at 3.00pm on the third working day after the publication of the decision (not including the date of publication), unless called-in under these provisions.

- 18.5 During this period, the proper officer shall call in a decision for scrutiny by the relevant Policy and Accountability Committee if so requested by at least 50% of the voting members of that Committee. For the purposes of this provision the education co-opted members referred to in paragraph 4 of these Rules shall only be entitled to request the call-in of a decision relating to education matters.
- 18.6 A request for the call-in of a decision must be made in writing or by electronic mail in a format approved from time to time by the proper officer and must set out the reasons for the calling in of the decision.
- 18.7 On receipt of a valid call-in request the proper officer shall notify the decision-maker and the Chair of the relevant Policy and Accountability Committee of the call-in. A called-in decision is suspended and no steps shall be taken to implement it subject to these provisions.
- 18.8 A decision which is called-in shall be placed on the agenda for the next scheduled meeting of the relevant Policy and Accountability Committee or a special meeting convened for that purpose, subject to the access to information provisions.
- 18.9 If, having considered the decision the Policy and Accountability Committee is still concerned about it, then it may:
- refer it back to the decision-maker for reconsideration; or
  - refer the matter to full Council
- 18.10 In both cases it must set out in writing the nature of its concerns. If referred to the decision-maker they shall reconsider it at their next meeting amending the decision or not before adopting a final decision. Once a decision has been reconsidered by the decision-maker it may not be the subject of further call-in.
- 18.11 If the Policy and Accountability Committee at which a called-in item is due to be considered does not meet or does meet but does not refer the matter back to the decision-maker or to full Council the decision shall take effect from the date fixed for that Policy and Accountability Committee meeting.
- 18.12 A matter referred to full Council shall be placed on the agenda for the next scheduled meeting of the Council, subject to the access to information provisions. If the Council does not object to the decision then no further action is necessary and the decision takes effect in accordance with the provision below. However if the Council does object it has no power to make decisions in respect of an Executive decision unless it is contrary to the policy framework or is contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-maker together with the Council's views on the decision. The decision-maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision is taken by the Executive as a whole or a Committee of it, a meeting will be convened within 10 working days of the Council's request. Where the decision was taken by an individual the individual shall reconsider within 5 working days of

the Council's request.

- 18.13 If the Council does not meet, or if it does but does not refer the decision back to the decision-maker the decision will become effective on the date fixed for the Council meeting.

## **19. Call-In and Urgency**

- 19.1 The call in procedure set out above shall not apply or shall cease to apply where the decision being taken by the Executive is urgent or becomes urgent during the call in process. A decision is urgent if any delay likely to be caused by the call-in process is likely to seriously prejudice the Council's or the public's interests. 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 or has become an urgent one, and therefore not, or no longer subject to call-in. The Mayor must agree both that the proposed decision is reasonable in all the circumstances and that it is reasonable to treat it as an urgent matter. In the absence or incapacity of the Mayor, the Deputy Mayor's consent shall be required. In the absence or incapacity of both, the Head of Paid Service or their nominee's consent shall be required.
- 19.2 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.

## **20. Items not included in the Key Decisions list**

- 20.1 Chairs of Policy and Accountability Committees have a right to be informed when the Executive is taking decisions not included in the Key Decisions list in accordance with paragraph 16 (General Exception) of the Access to Information Procedure Rules.
- 20.2 Chairs of Policy and Accountability Committees have the right to agree that in cases of special urgency (paragraph 17 of the Access to Information Procedure Rules) the taking of a decision cannot reasonably be deferred.

## **21. The Party Whip**

- 21.1 When considering any matter in respect of which a member of a Policy and Accountability Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it, before the commencement of the Committee's deliberations on the matter. Alternatively, the written report on the matter shall state the proposed policy of the majority and minority parties on the Council, and by this it should be understood that that matter is the subject of a party whip. Such declarations, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **22. Declarations of Interest**

- 22.1 If a Councillor (or a co-opted member) has a **disclosable pecuniary interest** in any particular agenda item at a Policy and Accountability Committee meeting, they should declare the existence and nature of the interest (unless it is a sensitive interest) at the commencement of the consideration of that item or as soon as it becomes apparent.
- 22.2 Any Councillor with a **disclosable pecuniary interest** may make representations, give evidence or answer questions about the matter, but only at meetings where members of the public are allowed to be in attendance and to speak. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken, unless a dispensation has been obtained from the Standards Committee.
- 22.3 At meetings where members of the public are not allowed to be in attendance, then the Councillor with a **disclosable pecuniary interest** must withdraw from the meeting while the matter is under consideration, unless the Standards Committee have granted a dispensation.
- 22.4 Each Councillor (or co-opted member) shall, within **28 days** of their election or appointment to office (if that is later) give to the Monitoring Officer or another approved officer a general notice, to be recorded in the Register of Members' Interests open to public inspection, of any **disclosable pecuniary interests**, as defined in the Code of Conduct in Part 5 of this Constitution.
- 22.5 If a Councillor (or co-opted member) has declared a **disclosable pecuniary interest** at a Policy and Accountability Committee meeting which has not been recorded in the Register of Members' Interests they shall, within **28 days** of the declaration, give notice of the interest to the Monitoring Officer.

### **23. Public Participation**

- 23.1 At a meeting of a Policy and Accountability Committee, members of the public may speak at the discretion of the Chair. Members of the public should conduct themselves appropriately in accordance with the Council Procedure Rules in Part 4 of the Constitution relating to public rights at meetings.
- 23.2 Members of the public may be excluded from a meeting in accordance with the Council Procedure Rules relating to admission/exclusion of the press and public, or for disorder.

### **24. Petitions**

- 24.1 Petitions may be made to a Policy and Accountability Committee in accordance with the Council's Petitions Scheme in Part 4 of the Constitution.
- 24.2 Another Policy and Accountability Committee will be directed to consider a request for a review of the steps taken and decisions made by the Council in response to a petition in cases where the Finance and Delivery Policy and Accountability Committee considered the original petition.

## 25. Deputations

25.1 Deputations can be made to any Policy and Accountability Committee in respect of any aspect of its terms of reference, subject to a restriction that deputations on the same subject will not be permissible within six months of a similarly worded deputation.

### Form of Request

- a) A request for a deputation shall be made in writing using the deputation request form, signed by at least **ten registered electors** of the Borough. Such a request shall state the purpose of the deputation and the name and address of each of the signatories.
- b) A deputation must be relevant to the Policy and Accountability Committee's remit. Deputations should not refer to individuals, Council officers by name, nor personnel or staffing issues.
- c) Requests for deputations to Policy and Accountability Committees shall be submitted at least 3 working days before the relevant meeting.

### Receiving of Deputation

- a) A deputation shall be comprised of people who signed the request and shall consist of not less than three or more than ten people.
- b) One member of the deputation may address the Committee but his/her speech shall not exceed 5 minutes.
- c) Members of the Committee may during a period not exceeding 5 minutes ask questions of any member of the deputation.
- d) Members of the Committee will then debate the substantive report to which the deputation refers, if appropriate, taking into account the issues raised by the deputation. Members of the deputation may remain for the duration of the debate if they so wish.

### Limitation on Reception of Deputation

- a) The Monitoring Officer, in consultation with the Chair, shall have the power to determine that a deputation is out of order in not complying with the above rules, and that it need not be considered at the relevant Policy and Accountability Committee.
- b) The Chair reserves the right to limit the number of deputations heard at any one meeting in order to allow sufficient time for other business specified on the agenda.
- c) The Chair may refuse a deputation where they consider it reasonable to do so in the circumstances (e.g. where it is premature).

## 26. Procedure at Overview and Scrutiny Committee meetings

26.1 Policy and Accountability Committees shall consider the following business:

- a) minutes of the last meeting;
- b) declarations of interest and whipping declarations;
- c) petitions
- d) deputations
- e) consideration of any called-in items;
- f) any responses of the Executive to previous reports of the Select Committee;
- g) the ongoing work programme;
- h) monitoring and review of previous Policy and Accountability Committee recommendations; and
- i) the business otherwise set out on the agenda for the meeting.

26.2 Where a Policy and Accountability Committee, Sub-Committee or Task Group conducts investigations (e.g. with a view to policy development), the Committee / Sub-Committee / Task Group may also ask people to attend to give evidence at meetings, which are to be conducted in accordance with the following principles:

- a) that the investigation be conducted fairly and all members of the Committee, Sub-Committee or Task Group be given the opportunity to ask questions of attendees, and to contribute and speak;
- b) that those assisting the Committee, Sub-Committee or Task Group by giving evidence be treated with respect and courtesy;
- c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis; and
- d) following any investigation or review, the Committee, Sub-Committee or Task Group shall prepare a report for submission to the Executive and / or Council (to the relevant Policy and Accountability Committee in the case of a Sub-Committee or Task Group) as appropriate, and shall make its report and findings public.

## **27. Conduct**

27.1 Councillors shall conduct themselves in accordance with the Council Procedure Rules in Part 4 of the Constitution relating to order at meetings.

## **28. Guillotine**

28.1 All Policy and Accountability Committees, Sub-Committee or Task Group meetings shall end after three hours (“the guillotine”).

28.2 The time elapsed during any suspension of a meeting shall be added to extend the time at which the following provisions come into effect.

28.3 At that time, or at any other time when a motion to close the meeting has been successfully carried:

- a) no further points of order shall be raised except by the Chair, except that Councillors may declare an interest in any remaining items of business;
- b) The Chair shall then interrupt the discussion of the item;
  - i. Unless the mover of a motion then under discussion seeks leave to withdraw it, the Chair shall allow them a right of reply to the debate;
  - ii. Unless the motion or item of business then under discussion is withdrawn, the Chair shall put, without further discussion, all the questions necessary to dispose of it;
- c) The Chair shall put without discussion, all the questions necessary to complete consideration of any remaining items on the agenda;
- d) Finally, the Chair shall close the meeting.

28.4 Prior to the fall of the guillotine, where the Policy and Accountability Committee believes that a specific extension of time is warranted, this may be agreed by a resolution to extend the guillotine for a specific period. There is no limit to the number of extensions, which may be agreed under this rule but no motion to extend the guillotine shall be permitted once the guillotine has fallen.

## **29. Membership**

29.1 The memberships of the Policy and Accountability Committees are detailed in Part 3 of the Constitution, under 'Committee Memberships'.

## **Appendix A – Councillor Call for Action**

Any Member of the Council shall be entitled to give notice in writing to the Proper Officer that they wish to place on the agenda of a Policy and Accountability Committee any matter which is relevant to its functions and affects all or part of that Member' ward or any person living or working in it. The notice must specify:

- a) the name of the Member submitting it;
- b) details of the relevant issue;
- c) a summary of the action undertaken by the Councillor and Community to resolve the matter; and
- d) details of the outcome the Councillor is seeking as a result of the referral in order to resolve or move forward the issue raised.

Unless it is alleged that the function has not been discharged or that the discharge is failing on a systemic basis, the matter must not relate to:

- b) decisions in relation to planning permissions and enforcement;
- c) decisions in relation to licensing applications, reviews and enforcement; or
- d) any matter relating to an individual or entity where there is a statutory right of recourse to a review or appeal.

The request must not be vexatious, discriminatory or not reasonable to be included on the agenda.

The Member shall be expected to have previously sought all reasonable means within their role as ward member to address the issue and to have regard to Guidance on the matter issued by the Secretary of State.

On receipt of such a request the proper officer will assess whether it is validly submitted and complies with the Guidance issued by the Secretary of State. If they are satisfied that it is valid they shall arrange for investigation and submission of an initial report on the matter for consideration by the relevant Policy and Accountability Committee. This will usually be placed on the agenda of the next scheduled meeting of the Committee unless the Chair is of the opinion that in all the circumstances it is not reasonably practicable to do so or to have it properly considered at that meeting. In such cases it will be presented to the next suitable meeting.

The proper officer shall determine the relevant Policy and Accountability Committee where the issues overlap the remits of more than one Committee. Members of the interested Committee that is not designated to receive the request will be invited to attend the meeting should they so wish.

If, in the opinion of the proper officer, the request is not consistent with the statutory guidance they shall inform the Member of this decision and the reasons for it in writing and, where possible, advise the Member of potential alternative sources of assistance in resolving the issue. The Committee shall be informed of the Proper Officer's action.

Validly submitted requests in respect of crime and disorder and community safety issues shall be referred to the Social Inclusion and Community Safety Policy and Accountability Committee.

Upon receipt of an initial report the relevant Policy and Accountability Committee must discuss the issue and may decide to call for a more detailed report on the matter, either make recommendations or refer it to Officers, The Cabinet, Portfolio holders or the relevant partner organisation for resolution, or to take no further action. In reaching this decision it must have regard for the Guidance issued by the Secretary of State and may refer to local guidance. The Member in whose name the request has been submitted will be entitled to attend meetings at which it is considered and address the Committee in support of the request.

Where it is decided to take no further action the Member must be notified in writing of the decision and the reasons for it. The Committee must provide the Member with a copy of any report or recommendations which it makes to the Authority, Cabinet, Cabinet Member, officer or partner organisation in relation to the matter.

## ***Deputation Request Form***

### **For Cabinet or Policy and Accountability Committee Meeting**

<b>PRINT THE NAME AND CONTACT DETAILS OF THE PERSON LEADING THE DEPUTATION (who must be a registered elector of this borough)</b>		
Name:		
Address:		
Telephone:	E-mail:	
Give the names, addresses, and signatures of at least 9 other registered electors of this borough who support the deputation request.		
<b>Name</b>	<b>Address</b>	<b>Signature</b>
<b>Carry on with a separate sheet if you wish. However, no more than 10 signatories may form the deputation at the meeting. You must submit the deputation request to the officer referred to on the relevant agenda at least 3 working days before a Cabinet meeting or Policy and Accountability Committee meeting. 'Working days' does not include weekends or bank holidays.</b>		
<b>MEETING, DATE AND AGENDA ITEM TO WHICH THE DEPUTATION REFERS:</b>		
Meeting:		
Date:		
Agenda item:		
<i>NOTE: You cannot make a deputation to a Policy and Accountability Committee if you have made a similarly worded deputation within the previous six months.</i>		
<b>PLEASE GIVE YOUR DEPUTATION STATEMENT (This is an opportunity for you to state the purpose of your deputation – you can attach additional pages if necessary).</b>		

## **Deputation guidance notes**

### **Receiving of Deputation**

1. A deputation shall be comprised of people who signed the request and shall consist of not more than 10 people.
2. One member of the deputation may address the Committee, but his/her speech shall not exceed 5 minutes.
3. Members of the Committee may, during a period not exceeding 5 minutes, ask questions of any member of the deputation.
4. Members of the Committee will then debate the substantive report to which the deputation refers, taking into account the issues raised by the deputation. Members of the deputation may remain for the duration of the debate if they so wish.

### **Limitation on Reception of Deputation**

1. The Monitoring Officer, in consultation with the Chair of the Committee shall have the power to determine that a deputation is out of order in not complying with the above rules, and that it need not be considered at the relevant Committee.
2. The Chair of the Committee reserves the right to limit the number of deputations at any one meeting in order to allow sufficient time for any other business specified on the agenda.
3. The Chair of a Committee may refuse a deputation where they consider it reasonable to do so in the circumstances (e.g. where it is premature).

**Please send your form to the officer referred to on the agenda. If you wish, you can scan a completed copy of this form and send it to the e-mail address on the agenda.**

## **Officer Employment Procedure Rules**

Local Government Act 2000 & Local Authorities (Standing Orders) (England) Regulations 2015

### **Leader and Cabinet Constitutions**

#### **1. Recruitment and Appointment**

##### **1.1 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 an existing Councillor or officer of the Council; or of the partner of such persons.
- b) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

##### **1.2 Seeking support for appointment.**

- c) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- d) No Councillor will seek support for any person for any appointment with the Council.

#### **2. Recruitment of Head of Paid Service and Chief Officers**

2.1 Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) Regulations 1993) and it is not proposed that the appointment be made exclusively from among their existing officers, it shall:

- 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 to be sent to any person on request.

2.2 Where a post has been advertised under paragraph 2.1(a) the Council shall interview all qualified applicants for the post or select a

short list of such qualified applicants and interview those included on the short list. Where no qualified person has applied the Council shall make further arrangements in accordance with paragraph 2.1(c).

### **3. Appointment of the Head of Paid Service**

- 3.1 The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council before an offer of appointment is made. That Committee or Sub-Committee shall include at least one member of the Executive.
- 3.2 The Full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection from any member of the Executive has been received following their notification of the details of the proposed appointment in accordance with the procedure in Section 5.

### **4. Appointment of Chief Officers**

- 4.1 A Committee or Sub-Committee of the Council will appoint Chief Officers. That Committee or Sub-Committee shall include at least one member of the Executive.
- 4.2 An offer of appointment must only be made where no well-founded objection from any member of the Executive has been received following their notification of the details of the proposed appointment in accordance with the procedure in Section 5.

### **5. Consultation with the Executive**

- 5.1 An offer of appointment must not be given in respect of the Head of Paid Service or any other Chief Officer post until:
- (1) the Committee or Sub-Committee has notified to the Assistant Director People and Talent the name of the person it wishes to appoint and any other particulars which it considers relevant to the appointment;
  - (2) the Assistant Director People and Talent has notified every member of the Executive of:
    - a) the name of the person to whom the Committee or Sub-Committee wishes to make an offer of appointment;
    - b) any other particulars relevant to the appointment which the Committee or Sub-Committee has notified to the Assistant Director People and Talent;
    - c) the period within which any objection to the making of the offer is to be made by the Leader to the Assistant Director People and Talent on behalf of the Executive, and

Either:

- d) the Leader has within the period specified in paragraph (c) notified the Committee or Sub-Committee that neither they nor any other member of the Executive has any objection;
- e) the Assistant Director People and Talent has notified the Committee or Sub-Committee that no objection was received within that period from the Leader or;
- f) the Committee or Sub-Committee is satisfied that any objection received from the Leader within that period is not well founded.

## **6. Other Appointments**

- 6.1 **Officers below Chief Officer** - Appointment of officers below Chief Officer (other than assistants to political groups and an assistant to the Mayor) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.
- 6.2 **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. Disciplinary Action**

- 7.1 **Suspension** - The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension must be on full pay and last no longer than the expiry of four months beginning on the day on which the suspension takes effect.
- 7.1 Councillors will not be involved in the disciplinary action against any officer below Chief Officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, where the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

## **8. Dismissal (Head of Paid Service, the Monitoring Officer and the Chief Finance Officer)**

- 8.1 The Head of Paid Service, the Monitoring Officer, and the Chief Finance Officer may not be dismissed unless the following procedure is complied with and the Council must approve the dismissal before notice is given to that person:
  - The Council must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
  - An independent person means a person who has been appointed under section 28(7) of the Localism Act 2011. The Council has appointed two independent persons who form a panel of independent

persons. These persons appointed by the London Borough of Hammersmith and Fulham are therefore “relevant independent persons” for the purposes of this procedure.

8.2 The Council must appoint to the Panel such relevant independent persons who have accepted an invitation in accordance with the following priority order:

- a) a relevant independent person who has been appointed by the Council and who is a local government elector;
- b) any other relevant independent person who has been appointed by the Council;
- c) a relevant independent person who has been appointed by another authority or authorities.

8.3 The Council must appoint any Panel at least 20 working days before the matter is considered at a meeting of the full Council. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council will take into account, in particular-

- a) any advice, views, or recommendations of the Panel;
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the relevant officer.

## **9. Consultation with the Executive**

9.1 A notice of dismissal must not be given in respect of the post of Chief Officer until:

- a) the Committee or Sub-Committee has notified to the Assistant Director People and Talent the name of the person it wishes dismiss and any other particulars which it considers relevant to the dismissal;
- b) the Assistant Director People and Talent has notified every member of the Executive of:
  - i. the name of the person to whom the Committee or Sub-Committee wishes to give notice of dismissal;
  - ii. any other particulars relevant to the dismissal which the Committee or Sub-Committee has notified to the Assistant Director People and Talent;
  - iii. the period within which any objection to the dismissal is to be made by the Leader to the Assistant Director People and Talent on behalf of the Executive, and  
Either:
    - iv. the Leader has within the period specified in paragraph 8.3(c) notified the Committee or Sub-Committee that neither they nor any other member of the Executive has any objection;

- v. the Assistant Director People and Talent has notified the Committee or Sub-Committee that no objection was received within that period from the Leader or;
- vi. the Committee or Sub-Committee is satisfied that any objection received from the Leader within that period is not well founded.

## **10. Other Officers**

- 10.1 Any disciplinary action taken in respect of all other officers will be in accordance with the relevant Council's disciplinary, capability and related procedures.

## **Contract Standing Orders**

Contract Standing Orders govern all contractual arrangements made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. This includes all types of procurements, re-lets, direct awards, variations, novations, extensions and any other contractual transactions which the Council enters into.

You can find the full Contract Standing Orders on the Council's website:  
[www.lbhf.gov.uk/constitution](http://www.lbhf.gov.uk/constitution)

## Financial Regulations

Financial Regulations provide the regulatory and governance framework which directs the way Hammersmith & Fulham Council undertakes its financial activities including financial planning, budget setting, budget monitoring, and closing of the accounts.

Under section 151 of the Local Government Act 1972, 'every Local Authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.' The Financial Regulations set out these financial administration responsibilities.

You can find the full Financial Regulations on the Council's website:  
<https://www.lbhf.gov.uk/constitution>

## **PART 5 – CODES AND PROTOCOLS**

## Members' Code of Conduct

As a Member or co-opted Member of the London Borough of Hammersmith and Fulham I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

As a Member of the London Borough of Hammersmith and Fulham my conduct will in particular address the statutory principles of the Code of Conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents - including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.

- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the London Borough of Hammersmith and Fulham area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account, but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.
- Complying with the Council's Information Security Policy and not misusing the Council's resources for unacceptable personal use.
- Informing the Monitoring Officer if I am made subject to the notification requirements set out in the Sexual Offences Act 2003 (commonly known as being put on the sex offenders register), or subject to Sexual Risk Orders.

## Registration and Disclosure of Interests

### Registration of Interests

1. From 28 July 2012, and thereafter within 28 days of your election or co-option, you must notify the Monitoring Officer of any ‘disclosable pecuniary interests’ which you have at that time.
2. Where you are re-elected or re-appointed, notification is only required of any new disclosable pecuniary interests within 28 days of your election or co-option.
3. You must keep your Register of Interests entry up to date by notifying the Monitoring Officer of any changes to your disclosable pecuniary interests within 28 days of the change occurring, or of you becoming aware of the change.
4. A ‘disclosable pecuniary interest’ is as prescribed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in Appendix A.
5. A pecuniary interest is a ‘disclosable pecuniary interest’ in relation to you if it is of a type described above, and either:
  - (a) it is an interest of yourself, or
  - (b) it is an interest of:
    1. your spouse or civil partner,
    2. a person with whom you are living as husband and wife, or
    3. a person with whom you are living as if they were civil partners, and you are aware that that other person has the interest.
6. You are also required to notify the Monitoring Officer of any gifts or hospitality with an estimated value of at least £50 which you receive in your role as a Member or co-opted Member of the Council.<sup>11</sup> You must inform the Monitoring Officer of any such gifts or hospitality within 28 days of receiving them so that the details can be entered into the Register of Interests.<sup>12</sup> All disclosable interests will be published on the Council’s website.

### Sensitive interests

7. If the nature of an interest is such that you and the Monitoring Officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation, the interest must not be included in any published version of the Register of Interests, or be entered into any copy of the Register that is made available for public inspection. Instead the Register of Interests may state that the Member has an interest, the details of which are withheld under section 32(2) of the Localism Act 2011. If the Member is required to disclose such an interest in a meeting,

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<sup>11</sup> This does not include civic gifts or hospitality received by the Mayor whilst acting in this capacity. Civic gifts are to be recorded in a separate register maintained by the Mayor’s office.

<sup>12</sup> These details will be removed from the register two calendar years after they were added by the Monitoring Officer.

the Member need not disclose the interest, but merely the fact that the Member has a disclosable pecuniary interest in the matter concerned.

### **Disclosure of disclosable pecuniary interests at meetings**

8. The following provisions apply if you are present at a meeting of the authority, the Cabinet, or of any committee, sub-committee, joint committee or joint sub-committee of the authority, or you are a Cabinet Member exercising an executive function and you are aware that you have a disclosable pecuniary interest in a matter to be considered, or being considered, at the meeting or which is the subject of the executive decision.
9. If the interest is not entered in the authority's Register of Interests, you must disclose the interest to the meeting (unless the interest is a sensitive interest).
10. If the interest is not entered in the authority's Register of Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure.
11. Where the interest does appear in the Register of Interests, you must bring the interest to the attention of the meeting (unless the interest is a sensitive interest).
12. You may not:
  - (a) participate, or participate further, in any discussion of the matter at the meeting or in the case of an executive decision you must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with by someone else), or
  - (b) participate in any vote, or further vote, taken on the matter at the meeting (unless you have requested and been granted a relevant dispensation by the Standards Committee), or
  - (c) remain in the room during the discussion or vote on the matter.
13. Where you have a disclosable pecuniary interest in a matter to be considered at a meeting, you may attend the meeting but only for the purposes of making representations, answering questions or giving evidence relating to the matter, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. Once you have finished, or the meeting decides you have finished, you must leave the room and may not participate further.

### **Disclosure of other interests at meetings**

14. Where you are present at a meeting of the authority, the Cabinet, or of any committee, sub-committee, joint committee or joint sub-committee of the authority, or you are a Cabinet Member exercising an executive function, and identify any other significant interests which you feel should be declared in the

public interest, such interests should be declared to the meeting or, in the case of a Cabinet Member exercising an executive function, prior to taking a decision.

15. In such circumstances, you must consider whether your continued participation in the matter relating to your interest would be reasonable in the circumstances, particularly if the interest may give rise to a perception of a conflict of interests in the matter under discussion. If so you should comply with the requirements of paragraphs 12 and 13 above.

### **Allegations of a Failure to Comply with Code of Conduct**

All complaints alleging a failure to comply with this Code will be considered in accordance with a procedure agreed by full Council.

## Appendix A – Disclosable Pecuniary Interests

### Definitions

**The relevant person** means **you** or:

- Your spouse or civil partner,
- A person with whom you are living as husband or wife
- A person with whom you are living as if they were your civil partner

**Body in which the relevant person has a beneficial interest** means a firm with which a relevant person is a **partner**, or a body corporate of which the **relevant person** is a **Director**, or in the **securities** of which the **relevant person** has a beneficial interest.

**Director** includes a member of the committee of management of an industrial and provident society

**Securities** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a Building Society.

A 'disclosable pecuniary interest' is an interest of the **relevant person** (which you are aware of) within the following descriptions:.

### Employment

Any employment, office, trade, profession or vocation carried on for profit or gain by a relevant person.

### Sponsorship

Any payment or provision of any other financial benefit (other than from LBHF) made or provided within the **relevant period** in respect of any expenses, incurred by you in carrying out your duties as a member or co-opted member, or towards your election expenses.

This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992.

**Relevant period** means the period of 12 months ending with the day on which you notify the Monitoring Officer of the interest.

### Contracts

Any contract which is made between the **relevant person (or a body in which the relevant person has a beneficial interest)** and LBHF :

- (a) under which goods or services are to be provided or works are to be executed: and
- (b) which has not been fully discharged.

### Land

Any beneficial interest in **land** which is within the area of LBHF.

**Land** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the **relevant person** (alone or jointly with another) to occupy the land or to receive income.

### **Licences**

Any licence (alone or jointly with others) to occupy land in the area of LBHF for a month or longer.

### **Corporate Tenancies**

Any tenancy where (to your knowledge)

- (a) the landlord is LBHF
- (b) the tenant is a **body in which the relevant person has a beneficial interest**

### **Securities**

Any beneficial interest in **securities** of a body where

- (a) that body (to your knowledge) has a place or business or land in the area of LBHF; and
- (b) either:
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issues share capital of that class.

## **Statutory Officers' Code of Conduct**

### **Model Code of Conduct for Local Authority Employees<sup>13</sup>**

#### **Honesty, Integrity, Impartiality and Objectivity**

1. An employee must perform his duties with honesty, integrity, impartiality and objectivity.

#### **Accountability**

2. An employee must be accountable to the authority for his actions.

#### **Respect for Others**

3. An employee must:
  - a) treat others with respect;
  - b) not discriminate unlawfully against any person; and
  - c) treat members and co-opted members of the authority professionally.

#### **Stewardship**

4. An employee must:
  - a) use any public funds entrusted to or handled by him in a responsible and lawful manner; and
  - b) not make personal use of property or facilities of the authority unless properly authorised to do so.

#### **Personal Interests**

5. An employee must not in his official or personal capacity –
  - a) allow his personal interests to conflict with the authority's requirements; or
  - b) use his position improperly to confer an advantage or disadvantage on any person.

#### **Registration of Interests**

6. An employee must comply with any requirements of the authority:
  - a) to register or declare interests; and
  - b) to declare hospitality, benefits or gifts received as a consequence of his employment.

#### **Reporting procedures**

7. An employee must not treat another employee of the authority less favourably than other employees by reason that that other employee has done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority has for reporting misconduct.

#### **Openness**

8. An employee must:
  - a) Not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature,

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<sup>13</sup> A statutory Model Code of Conduct for Local Government Employees is still awaited. The Government's draft Model Code of Conduct, on which stakeholders were last consulted in August 2004, is set out in this section.

without the consent of a person authorised to give it, or unless they are required by law to do so; and

- b) Not prevent another person from gaining access to information to which that person is entitled by law.

**Appointment of staff**

- 9. An employee must not be involved in the appointment of any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee, who is a relative<sup>14</sup> or friend.

**Duty of trust**

- 10. An employee must at all times act in accordance with the trust that the public is entitled to place in him.

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<sup>14</sup>) 'Relative' means a spouse, partner, parent, parent-in-law, son, daughter, step-son, stepdaughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons. Partner means a member of a couple who live together.

## Member / Officer Protocol

### 1. INTRODUCTION

- 1.1 The traditional (and legal) position of local authority officers is that they are employees of, and serve, the whole Council. Officers support and advise the Council and constituent parts of its decision-making machinery, implement Council decisions, and may take decisions formally delegated to them through the scheme of delegation. All officers are required to be politically neutral, and for senior officers, this is enforced through the political restrictions of the Local Government and Housing Act 1989.
- 1.2 A copy of the draft Model Code of Conduct for Local Government Employees is set out elsewhere in this Constitution.
- 1.3 When the Council introduced its new political management and decision-making arrangements in 1998, it reviewed and updated its local codes and protocols to reflect the introduction of a political Executive. The changes reflected the shift towards more visible and accountable roles for elected members, and a relationship with Chief Officers which moved closer to the traditional civil servants' relationships to Ministers.
- 1.4 For the Council's current Constitution, these principles remain largely unchanged. The role of Cabinet Members, and a set of ground rules governing working relationships between Cabinet Members and Directors/Chief Officers, is set out below in a formal local protocol. Further local protocols similarly set out the role of Chairs of Scrutiny bodies (Policy and Accountability Committees) and their relationship with officers, and the role of the Opposition and their relationships with officers.
- 1.5 A summary of the principles applying to Chief Officers are set out below:
  - a) Chief Officers are employed to serve the whole Council, and remain ultimately accountable to the whole Council. They are also expected to provide a high level of support to the Administration of the day, to give advice to Cabinet Members, and to pursue and implement all lawful policies and decisions made by the political Executive (Leader and Cabinet Members) via the Council's formal decision-making processes.
  - b) All officers are required to be politically neutral, and for senior officers this is enforced through the political restrictions of the Local Government and Housing Act 1989. All officers are required to abide by the Council's local Code of Conduct for staff.
  - c) Chief Officers have individual responsibilities as defined in their job descriptions or delegated from full Council. In some cases, these will include professional or technical responsibilities of a statutory nature (e.g. regulatory functions, proper officer functions). These functions

need to be exercised without inappropriate interference, either from Councillors or from outside parties.

- d) Chief Officers with professional responsibilities may also have a duty to observe codes and standards set by outside professional bodies (e.g. accountancy, law, structural engineering). There may be occasions when these require to be treated as over-ruling the views of Cabinet Members or Council policy decisions (and should such circumstances arise, Chief Officers will need to report the position via the decision-making process).
- e) The Chief Executive and Chief Officers have a collective responsibility to advise the Council on its priorities, allocation of resources and forward programmes.
- f) Officers should conduct themselves with integrity, impartiality, and honesty. They should give honest and impartial advice to the Leader and other Cabinet Members without fear or favour, and make all information relevant to a decision available to them. They should not deceive or knowingly mislead Cabinet Members, other Councillors, or the public, or withhold information that may be relevant to a decision.
- g) In their dealings with non-Executive Councillors, officers should give careful consideration to the stage that policy deliberations or decisions have reached. Officers owe a duty to respect the confidentiality of the policy formulation process within the Council's political Executive (Leader and Cabinet Members), and where necessary should ask non-Executive Councillors to understand and respect their position in so doing.
- h) These principles apply to papers generated for policy formulation purposes within the Council's political Executive (Leader and Cabinet Members) or for initial discussion at party groups. It is a long-standing convention of the Council that such papers are treated as confidential, and officers should respect this principle, subject to the statutory provisions on access to information set out in the Local Government Act 1972 (as amended), the Freedom of Information Act 2000 and the Access to Information Procedure Rules set out in the Council's Constitution.
- i) Once the proposals and decisions of the Executive are published and become available for scrutiny, officers should assist in providing background information either to Councillors or the public.
- j) The Council's Executive arrangements, and the access to information procedure rules as set out in the Constitution, govern the principles whereby chief and other officers may meet with members of the Executive for the purpose of briefing Councillors, singly or collectively, in accordance with the provisions of the Local Government Act 2000.

- k) Chief Officers (and on some occasions other officers) may be invited to attend meetings of party groups, or single party meetings of Councillors, to provide briefings or background information. On such occasions, officers should not be asked or expected to take part in party political discussion or otherwise to compromise their political neutrality.
- l) Under NJC and APT&C contracts of employment, officers cannot be compelled to attend party group meetings at which there are those present who are neither Councillors nor Council employees. If attending any such meetings, officers should be particularly careful not to divulge any information confidential to the Council, and should take account of the fact that non-Councillors are not bound by the same requirements as Councillors in respect of confidentiality and declarations of interest.
- m) As set out in the Code of Conduct, officers should not without authority disclose information communicated in confidence within the Council, and not in the public domain. They should not seek to frustrate or influence the policies, actions or decisions of the Council by the unauthorised, improper or premature disclosure outside the Council of any information to which they have had access as officers.

## **2. DELEGATION**

- 2.1 Chief Officers exercise functions and powers formally delegated by the Council, through the Scheme of Delegation. Where required (as in the case of any major decision taken by an officer), the exercise of such delegation must be published and recorded in writing. Delegation of specific statutory and non-statutory functions from the Council to individual officers within departments is set out within the Scheme approved by the Council on an annual basis. Where a Chief Officer is sub-delegating functions to named officers, this should be recorded within a written scheme held within each department.

## **3. WHERE THINGS GO WRONG**

- 3.1 From time to time, the relationship between Councillors and officers may become strained or break down. While it is always preferable to resolve matters informally, through conciliation by an appropriate senior manager or Councillor, where matters are unresolved they should be referred initially to the Chief Executive or Monitoring Officer who will consult with appropriate Group leaders, in deciding on more formal routes for resolution.
- 3.2 In the event that a Councillor is dissatisfied with the conduct, behaviour, or performance of an officer, the matter should be raised with the appropriate Director.

## **4. WHISTLE-BLOWING**

- 4.1 Separate local protocols at Council-wide level, and within certain individual Departments (Children’s Services) govern situations in which officers may legitimately need to disclose or report information in respect of potential illegality, maladministration, fraud or corruption. Procedures for such disclosure are set out in these “whistle-blowing” procedures.

**5. CORRESPONDENCE**

- 5.1 It is an accepted convention at LBHF that Chief Officers should be able to correspond with Cabinet Members in strict confidence, and vice versa. Where Opposition Members and MP’s seek information about Council services from a Chief Officer, it is also the convention that Chief Officers have a responsibility to keep Cabinet Members informed, normally by sending a copy of the response to the Cabinet Member, along with the original query.
- 5.2 Personal matters – in cases where an Opposition Member seeks information on a genuinely personal basis, then the initial letter and response should be confidential, and the appropriate Cabinet Member should not receive a copy.

*NOTE: Chief Officers are Executive Directors or Service Directors*

## Local Protocol for Leader and Cabinet Members

### 1. INTRODUCTION

- 1.1 This protocol aims to ensure that the Leader and Cabinet Members, as members of the Council's political Executive, work to a set of ground-rules designed to maintain high standards of public accountability, mutual respect between Councillors and officers, and a clear understanding of the executive and scrutiny functions within the Council's decision-making structures.
- 1.2 The protocol remains broadly unchanged from that in place at LBHF since the Council introduced executive and scrutiny arrangements in June 1998.

### 2. GENERAL PRINCIPLES

- 2.1 Cabinet Members, along with all other Councillors, must observe the Council's Code of Conduct for Members, as adopted by the Council. (See Part 5 – Codes and Protocols - of the Council Constitution). This covers personal conduct, public duty and private interests, disclosure of interests, acceptance of gifts and hospitality, use of Council facilities, and the basic principles of relationships between Councillors, officers, and others.
- 2.2 Over and above these requirements, Cabinet Members have responsibilities, as set out in their individual portfolios, for making proposals to committee, and for decisions that are neither defined as Key Decisions nor delegated to officers, with appropriate support from officers. Cabinet Members have a responsibility to account to, and to be held to account by, the full Council and the Council's scrutiny arrangements (relevant Policy and Accountability Committees).
- 2.3 Cabinet Members should be as open as legally possible with scrutiny bodies and with the public. In a public forum however, information should not normally be disclosed where it has been categorised as exempt within the 7 definitions given in the Access to Information Procedure Rules set out in Part 4 of the Council Constitution (i.e. where specific grounds for confidentiality are stated), and/or the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.4 In developing their proposals and in making decisions, Cabinet Members should consult their colleague Cabinet Members, other Councillors, and the wider public.
- 2.5 Cabinet Members should keep separate their roles as Cabinet Member and as constituency Councillor, and should seek to ensure that no conflicts of interest arise. Should any conflict arise, Cabinet Members may wish to consider referring relevant decisions to the Cabinet, or to the Leader.
- 2.6 In accordance with the Council's Code of Conduct, Cabinet Members must not use Council resources for party political purposes. They must uphold the

political impartiality of the officer body, and not ask officers to act in any way which would conflict with the Council's Staff Code of Conduct, local protocol on Member/Officer relationships, or national Conditions of Service.

### **3. THE ROLE OF CABINET MEMBERS**

- 3.1 The Leader is elected by the Council and other Cabinet Members are appointed by the Leader. Each has a defined portfolio of responsibilities. Cabinet Members do not have line management responsibilities for staff, and should not issue management instructions to staff.
- 3.2 The business conducted by Cabinet Members, singly and collectively, consists of:
- a) matters which will ultimately be decided by the full Council, because they form part of the Council's statutory budget and policy framework;
  - b) matters which fall clearly within the remit of a single Cabinet Member, and which may be key decisions published via the Key Decisions list, or lesser matters.
  - c) matters which cross the portfolios of more than one Cabinet Member, or on which there are unresolved issues between Departments.
- 3.3 Matters wholly within the responsibility of a single Cabinet Member and which do not involve collective responsibility will normally be discussed between the Cabinet Member and the relevant Chief Officer (or Chief Executive in the case of the Leader). Cabinet Members will then make recommendations to the Cabinet on these matters, or make decisions where these are not defined as Key Decisions under the Council's Constitution.
- 3.4 At this stage, Cabinet Members will have considered a written report on the matter, prepared in accordance with the Council's report writing guidelines. The Cabinet Member shall sign off this report prior to it entering the decision-making process, and the report will from then on provide background information on the matter in question, available to Councillors for scrutiny purposes and to the public (subject to the Access to Information Procedure Rules and other legislation).
- 3.5 Cabinet Members should respect the timetables and notice periods established via Governance and Scrutiny, so as to allow proper collective consideration of issues in the decision-making process.
- 3.6 In undertaking the roles inherent in an executive decision-making system, Cabinet Members and Chief Officers should respect the following principles:
- a) As 'visible' and accountable elected representatives, with defined responsibilities, Cabinet Members need to be properly briefed on all significant aspects of the work of the one or more departments that operate within their remit. Directors should ensure a proper information

flow so as to ensure that Cabinet Members can effectively undertake this part of their role.

- b) Good communications can best be achieved through planned and programmed meetings and briefing arrangements. On the basis that Directors should be ensuring that the information needs of Cabinet Members are met, Cabinet Members should in turn seek to avoid making requests for unanticipated briefings, or detailed information gathering exercises, which can unbalance planned departmental workloads.
- c) Cabinet Members should channel requests for information, advice, and other support via the Chief Officer, or via such arrangements as are agreed and established with the Chief Officer (e.g. Director's PA, specific Departmental Management Team members on specific issues). Cabinet Members should not normally approach other departmental staff direct with requests for information (except in cases of urgency) or seek to commission work from individual staff, as this can create conflict with day-to-day line management accountabilities.
- d) While Cabinet Members will wish to work with Chief Officers and senior managers in the development of policies and programmes, they should recognise that there are categories of officer-level meetings, both inside and outside the Council, where attendance by a Cabinet Member (or other Councillor) is inappropriate.
- e) Cabinet Members (and other Councillors) have collective responsibility to the Council for the conduct of employment policy, and the Council acts as the employing body for all Council staff. Employment policies, having been set by the Council, are implemented via Chief Officers. Cabinet Members should avoid becoming over-involved in issues of individual performance of officers or individual cases of grievance, disciplinary action, or harassment. Cabinet Members have the right, however, to bring to the notice of relevant Chief Officers any instances within their area of responsibility where they have evidence that there are problems of inefficiency or ineffectiveness, and to be kept informed of what course of action is being pursued in such circumstances.
- f) Under an Executive and Scrutiny system, Committee recommendations and 'non-key' decisions are published under the title of the relevant Cabinet Member, and Cabinet Members are expected to justify and account for their proposals to Policy and Accountability Committees and to Full Council as appropriate. In framing recommendations and making decisions, Cabinet Members are expected to take appropriate advice from relevant Chief Officers, who should ensure that full and proper professional, legal and financial advice is provided in writing, in reports to Cabinet Members.
- g) In bringing forward new policies and proposals, Cabinet Members may wish to discuss with Chief Officers, and via Chief Officers with senior officers preparing reports, the content of such reports and the framing of

recommendations. While Cabinet Members may wish to make suggestions on content and drafting, to achieve clarity of presentation, simplify jargon, or better explain issues, they should not attempt to edit out or override any content of reports which Chief Officers feel it important to put before the Council. This is especially relevant to matters of a professional or technical nature, and all Chief Officers retain an inherent right to report direct to all Committees where they consider it necessary.

- h) While reports and recommendations appear under the title of the relevant Cabinet Member, relevant Chief Officers will oversee their implementation and will therefore be assumed to accept responsibility for the professional and technical content of reports (subject to below).
- i) Where Cabinet Members wish to put forward proposals of their own (i.e. which have not been generated in discussion with a Chief Officer or via a Council department), this should be made clear in the 'contributors' section of any written report. In such instances, it is the responsibility of the Cabinet Member to seek any necessary legal or financial advice for inclusion in the report. Chief Officers may wish, and have a right, to add their comments to such reports.
- j) A number of Chief Officers exercise statutory functions or have individual responsibilities. Cabinet Members should not attempt to interfere with these roles. These include the functions of Chief Financial Officer and Monitoring Officer, details of which are set out in the Council's Constitution and local protocols.
- k) Similarly, other than in considering policy implications with the relevant Chief Officer, Cabinet Members should not become directly involved in the handling of individual cases on matters delegated to officers (e.g. planning, housing, child care, education), other than in exceptional cases, where a difference of view may need to be resolved through a report to Committee.

### **Cabinet Members and the Scrutiny Function**

- 3.7 Where reports are referred or called in for scrutiny by Policy and Accountability Committees, Cabinet Members are expected to attend to answer questions. Cabinet Members will normally be briefed and able to answer the majority of questions themselves, as well as explaining and justifying where necessary the basis of the proposal or decision. On more technical or professional issues, Cabinet Members may wish to call on Chief Officers or specialist officers to answer questions and explain the basis for recommendations.
- 3.8 Where motions are raised at Council meetings, Cabinet Members have a right under the Council Procedure Rules to speak first in responding in debate, on matters within their portfolios.

### **Cabinet Members and fellow Councillors**

- 3.9 The distinctive roles of Cabinet Members and 'non-executive' or backbench Councillors are well-established at LBHF.
- 3.10 Apart from the arrangements in place to ensure that backbench Councillors are informed of proposed Key Decisions via the Council's Key Decisions list, Cabinet Members should ensure they consult as necessary with colleagues in the early stages of formulating proposals. Ward Councillors in particular should be consulted on issues relevant to their Ward.

### **Cabinet Members and outside bodies**

- 3.11 Cabinet Members represent the Council on a range of outside bodies, partnership meetings, and inter-agency structures. As such, they act as spokespersons for the Council, but do not have authority to bind or commit the Council to any decision that requires formal committee approval (i.e. a Key Decision or element of the Council's budget or policy framework).
- 3.12 The statutory Code of Conduct and the Council's local protocols contain detailed guidance for all Councillors on their role on outside organisations.

### **Cabinet Members and the Media**

- 3.13 Cabinet Members act as spokespersons for the Council, in responding to the press and media and making public statements on behalf of the Council. Cabinet Members should liaise with the Communications Team on all forms of contact with the press and media. Annexed to this protocol is a code of practice for the issue of press releases.

## **Annex – Code of practice for the production of press releases**

The guiding principles as to the issuing of press releases by local authority staff are governed by Section 2 of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity (circular 20/88) which must always be taken into account in relation to all publicity issued.

The following is an extract from the Act:

*"A local authority shall not publish any material which, in whole or in part, appears to be designed to effect support for a political party. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters:*

- (a) Whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*
- (b) Where material is part of a campaign the effect which the campaign appears to be designed to achieve"*

The Council is not therefore permitted to fund the production of press releases which are party political. To assist in defining this the following checklist can be used:

- party political logos should not be used
- party political names should not be used except where they are essential in describing a position
- the description of the party groups should normally be **Administration** and **Opposition** (although the political party can be used, normally in brackets, in absolutely exceptional circumstances for the purposes of clarity or where there is more than one opposition group)

However each case will turn on its facts and appropriate advice should be sought.

## Local Protocol for Policy and Accountability Committee Chairs

### 1. INTRODUCTION

- 1.1 This protocol aims to ensure that Chairs of Policy and Accountability Committees work to a set of ground rules designed to maintain high standards of public accountability, mutual respect between Councillors and officers, and a clear understanding of the executive and scrutiny functions (Leader and Cabinet Executive model) adopted by the Council.

### 2. GENERAL PRINCIPLES

- 2.1 Chairs of Policy and Accountability Committees (PACs), along with all other Councillors, must observe the statutory Code of Conduct as set out in Part 5 of the Constitution. This covers personal conduct, public duty and private interests, disclosure of interests, acceptance of gifts and hospitality, use of Council facilities, etc., and the basic principles of relationships between Councillors and officers.
- 2.2 Over and above these requirements, Chairs of PACs have responsibility for ensuring the overview and scrutiny process operates fairly and openly.
- 2.3 Chairs of PACs should expect the Executive (Leader and Cabinet Members) to be as open as legally possible with PACs. In a public forum however information may not be disclosed where it has been defined as exempt under the Access to Information Procedure Rules set out in Part 4 of the Constitution. (i.e. where exempt reports are being considered, where specific grounds for confidentiality are stated).
- 2.4. Chairs of PACs have a right to be informed when the Executive is taking decisions not included in the Forward Plan in accordance with paragraph 16 (General Exception) of the Access to Information Procedure Rules. Chairs of PACs have the right to agree that in cases of special urgency (paragraph 17 of the Access to Information Procedure Rules) the taking of a decision cannot reasonably be deferred.
- 2.5 Chairs of PACs should keep separate their roles as chairs and as a constituency Councillors, and should seek to ensure that no conflicts of interest arise. They should be mindful of the provisions of the statutory Code of Conduct and not seek to use their position to influence events unduly.
- 2.6 In accordance with the statutory Code, they must not use Council resources for party political purposes. They must uphold the political impartiality of the officer body, and not ask officers to act in any way which would conflict with the local Code of Conduct for Staff, or Guidance for Chief Officers, or national terms and conditions of service.

- 2.7 Officers are required to assist PACs in the delivery of their role. Chairs of PACs, as with all Councillors undertaking overview and scrutiny, will however have to be aware of the resource consequences of any proposals. In some instances, requests for research in pursuit of overview and scrutiny may be refused on grounds of expense or time.
- 2.8 The protocol on Member / officer relations explains how Chief Officers must seek to serve the entire Council. This protocol should therefore be read in conjunction with the protocol on Member / officer relations, also contained in Part 5 of this Constitution.
- 2.9 In undertaking their role, the Chairs of PACs may wish to issue press releases. The Communications Team should facilitate press releases appropriately on their behalf.

### **3. ROLE AND REMIT OF POLICY AND ACCOUNTABILITY COMMITTEES**

- 3.1 The general and specific roles and functions of PACs are set out in Article 6 of this Constitution.

### **4. PROCEEDINGS OF POLICY AND ACCOUNTABILITY COMMITTEES**

- 4.1 PACs will conduct their proceedings in accordance with the Policy and Accountability Procedure Rules set out in Part 4 of this Constitution.

## Local Protocol for the Opposition Leadership

### 1. INTRODUCTION

- 1.1 The term "Opposition" is applied to the largest group of Councillors not forming part of the Administration. Where non-Administration Councillors are of more than one group, the appointed leader of the largest of those groups is known as the "Leader of the Opposition".
- 1.2 This protocol is intended to set out agreed ground rules as to the special responsibilities that rest with Councillors forming the Opposition leadership. This is defined as the Leader, Deputy Leader and Opposition Whip, together with any other Councillors allocated special responsibilities. It should be read in conjunction with the statutory Code of Conduct, also in Part 5 of the Constitution.

### 2. STAFF

- 2.1 The Opposition leadership will have allocated to it a personal assistant, whose role is as set out in a job description. They are bound by the same terms and conditions as other local authority employees in relation to party political activity. Briefly, the job description contains provisions to:
- Undertake research
  - Provide administrative support
  - Provide secretarial support

### 3. MEDIA RELATIONS

- 3.1 The Opposition leadership act as spokespersons for their group, in responding to the press and media and making public statements. A code of practice for the issue of press releases is annexed below.

### 4. OPPOSITION ACCESS TO INFORMATION

- 4.1 The Council's Constitution sets out the general legal position on Councillors' rights of access to information. Whilst the Leader of the Opposition has no specific additional legal rights of access to Council documentation, they are likely to seek more information by way of the position held. The various tests under the "need to" principle, as enshrined in case law, will apply.
- 4.2 The right of access to committee reports, background papers etc. is governed by the Local Government Act 1972 (as amended), the Data Protection Act 2018, and the Freedom of Information Act 2000 (see Part 4 of this Constitution – Access to Information Procedure Rules).
- 4.3 It is a longstanding convention at this Authority, enshrined in the Member / Officer local protocol agreed between the political parties and adopted by the Council in 1994, that papers used in the "deliberative" stage of the political management process are treated as confidential to the

Administration of the day. Under the new executive structures adopted at the Annual Council in May 2002, this principle has continued to apply to the papers of Political Cabinet, briefings to Cabinet, Strategic Leadership Team, Business Delivery Team, Change Board, and Cabinet Member Board meetings. Agendas and papers of party groups on the Council are also treated as confidential.

## **5. CORRESPONDENCE**

- 5.1 It is an accepted convention at this Authority that Chief Officers should be able to correspond with Cabinet Members in strict confidence and vice versa.
- 5.2 Where Opposition members seek information about Council services from a Chief Officer, it is also an accepted convention that Chief Officers have a responsibility to keep Cabinet Members informed through sending a copy of the response to the Cabinet Member, along with the original inquiry.
- 5.3 On personal matters where an Opposition member seeks information on a purely personal basis, then the initial letter and response should be confidential and the appropriate Cabinet Member should not receive a copy.

## **Annex – Code of practice for the production of press releases**

The guiding principles as to the issuing of press releases by local authority staff are governed by Section 3 of the Local Government Act 1986. and the Recommended Practice on Local Authority Publicity (Circular 20/88) which must always be taken into account in relation to all publicity issued, is also highly relevant.

The following is an extract from Section 2 of the 1986 Act:

*"A local authority shall not publish any material which, in whole or in part, appears to be designed to affect support for a political party. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and in particular the following matters –*

*(a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;*

*(b) where material is part of a campaign the effect which the campaign appears to be designed to achieve"*

The Council is not therefore permitted to fund the production of press releases which are party political. To assist in defining this the following checklist can be used:

- party political logos should not be used
- party political names should not be used except where they are essential in describing a position
- the description of the party groups should normally be Administration and Opposition (although the political party can be used, normally in brackets, in absolutely exceptional circumstances for the purposes of clarity or where there is more than one opposition)

However each case will turn on its facts and appropriate advice should be sought.

## **Local Protocol for the Mayor and the Civic Role**

### **1. CIVIC ARRANGEMENTS**

- 1.1 Civic and ceremonial events and engagements may be undertaken by any one of the following:
- Mayor
  - Deputy Mayor
  - Leader
  - Deputy Leader
  - Cabinet Members
- 1.2 The appropriate Member will be selected by the Mayor's Office in consultation with the Members listed above according to the nature of the event or engagement.
- 1.3 The above Members shall be entitled to wear civic insignia when undertaking engagements on behalf of the Mayor.

### **2. BUDGETS**

- 2.1 The Mayoral budgets, including reception and entertainment, shall be available for Mayoral and civic events and engagements. Approval of this expenditure shall be through the Strategic Director of Finance.

### **3. USE OF OFFICIAL CAR**

- 3.1 The Council maintains an official car which shall be available to the above members when they are undertaking Mayoral or civic events and engagements.

### **4. STAFF**

- 4.1 Staff in the Mayor's Office assist the Mayor in the full delivery of services. They are also available to assist the other Members listed above when they are undertaking Mayoral or civic events or engagements.

## Councillors' Support Guidelines

The Councillors' Support Service provides:

- Taking messages and giving advice on surgeries details
- Ordering of personalised H&F Council stationery

### **BULK MAIL OUTS**

The Council does not provide a bulk mail facility for individual Councillors.

### **MOBILE PHONES**

Mobile telephones are provided to Councillors who demonstrate they have a special need. That would normally mean a Councillor with special responsibilities and whose movements make other forms of contact difficult or unreliable. They will only be issued where it is in the clear interest of the Council.

The Council can only pay for outgoing calls on such mobile telephone when they are made on Council business.

Any personal calls made on a Council-provided mobile telephone should be paid for by the Councillor. Itemised monthly bills will be circulated to Councillors to help them identify such calls. In addition to the normal reasons around probity, this is important because if personal calls are not paid for, mobile telephones become taxable benefit.

The mobile telephones remain the property of the Council and should be returned in the event of changes in the circumstances which warranted their original issue.

### **NB:**

- Confidentiality is important to Councillors and the strictest confidentiality in dealing with Councillors' work is maintained.
- The improper use of Councillors' support facilities (and for that matter any other Council facilities – headed note paper, photocopier etc.) could lead to legal challenge as set out in the Code of Conduct for Councillors.

For further information please contact:

**Administration:** Jane Sheehan, Leader's Office Chief of Staff -  
[Jane.Sheehan@lbhf.gov.uk](mailto:Jane.Sheehan@lbhf.gov.uk)

**Opposition:** Manjeet Bhullar, Executive Support Officer -  
[Manjeet.Bhullar@lbhf.gov.uk](mailto:Manjeet.Bhullar@lbhf.gov.uk)

## **Councillors Access to Information – Local Protocol**

### **1. THE PROCESS**

- 1.1 All requests for documentation from Councillors should be routed through the Chief Officer, or where that Officer is not available and the request is urgent, then it should be made to an Assistant Director or Head of Service, as appropriate. It would be for the Councillor to explain why their particular request needed an urgent response.
- 1.2 Councillors are requested to:
- Be as specific as possible about the documentation that they wish to see;
  - Normally make the request in writing; and
  - State the reason for wanting the information, and the purpose to which it will be put.

*Note: The reason for asking Councillors to follow this procedure is not to be overly bureaucratic and cause delay, but to ensure that the appropriate information is supplied, and that “sensitive” information is safeguarded. This procedure is without prejudice to a Councillor’s rights under the Freedom of Information Act 2000 (see below).*

- 1.3 If the Councillor’s request is considered legitimate by the Chief Officer, then the information will be supplied as soon as possible. However, if the Chief Officer considers that to meet the request would not be justified because of the administrative cost - for example because the documentation is too bulky to be photocopied, or would require expensive and continuing computer runs - then alternative arrangements to try to meet the request will be tried.
- 1.4 For instance, Councillors could be invited to inspect the relevant document(s) or file(s). This should be done under the supervision of a senior officer with knowledge of the subject area, and the Councillor should mark any documents requiring photocopying. The department may also wish to keep a record of what is copied.
- 1.5 If there are reasons why the Chief Officer feels that documents should not be disclosed and wishes confirmation of that view, then the matter should be referred to the Monitoring Officer or the Chief Executive. It should be noted that there are very few instances when a Councillor who satisfies the “need to know” criteria (set out in the section which deals with the legal situation below) should be denied access to the documentation. Normally, such documents will need to be defamatory or likely to lead to criminal prosecution or contain allegations of impropriety etc. before access is denied.

*Note: Officers should be aware that files and other papers can be inspected, and that all files are the property of the Council, and are not exempt from inspection rights, except in rare instances.*

### **2. THE LAW**

2.1 A Councillor's right to inspect documents in the Council's possession is governed by statute, case law, the Council's Constitution and the Council's Members' Code of Conduct.

### **3. STATUTE (SECTION 100F OF THE LOCAL GOVERNMENT ACT 1972 AND RELEVANT REGULATIONS)**

3.1 Any Councillor can inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, the Cabinet, a Committee or Sub-Committee (i.e. a decision-making body), subject only to the exceptions listed in the paragraphs below.

3.2 Schedule 12A of the 1972 Act (as amended) sets out 7 categories of information normally "exempt" from public access, but nevertheless subject to a public interest disclosure test whereby the public interest in maintaining the exemption must outweigh the public interest in disclosing the information.

3.3 If it appears to the Council's proper officer that a document discloses "exempt" information, then disclosure to a Councillor is not required, unless the information falls within paragraph 3 of Schedule 12A (the financial or business affairs of any particular person (including the authority holding that information), except to the extent it relates to any terms proposed by or to the authority in the course of negotiations for a contract; or if the information falls within paragraph 6 of Schedule 12A (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). However, section 100F is in addition to a Councillor's other rights, and other tests may need to be applied.

### **4. CASE LAW**

4.1 A Councillor as an elected representative has a duty to be kept informed of Council business, and therefore has a '*prima facie*' right to inspect documents in the possession of the Council, and has a "need to know" to perform that role. The following "tests" may prove helpful in establishing whether a Councillor has a "need to know":

- If a Councillor is a member of the Committee, then they have the right to inspect documents relating to the business of that Committee.
- If a Councillor is not a Committee member, then they have to demonstrate why sight of the document(s) is necessary to enable the performance of their duties as a Councillor.
- If the Councillor's motive for seeing the documents is indirect, improper or ulterior, then the normal entitlement could be barred.
- Councillors are not allowed a "roving commission" through Council documents, but have to specify precisely the documents or information they are requesting.

### **5. FREEDOM OF INFORMATION ACT 2000**

- 5.1 A Councillor has some rights of access to information held by the Council under the Freedom of Information Act 2000 as a member of the public. A request under the Act must:
- Be in writing (electronic requests are acceptable)
  - Provide a name and address for correspondence
  - Describe specifically the information requested

Although a Councillor does not need to demonstrate a “need to know”, the Act contains a number of exemptions. For example, where information is confidential, consists of personal data, or is commercially sensitive, it is likely to be exempt from disclosure.

Thus a Councillor with a common law “need to know” will generally be entitled to more extensive information than would be available to him/her under the Act.

## **6. COUNCIL CONSTITUTION**

- 6.1 Under the Council’s Constitution (see Council Procedure Rules 7(c), Access to Information Procedure Rules 23.4), the Chief Executive or a Chief Officer may refuse to provide information to a Councillor on the grounds of cost or “another good reason for non-compliance”. This is subject to the Councillor’s legal rights, or a relevant Committee authorising the provision of the relevant information. The bias will usually be in favour of access to information.

## **7. COUNCILLORS’ CODE OF CONDUCT AND DATA PROTECTION**

- 7.1 Councillors are bound to abide by the provisions of the Council’s Members’ Code of Conduct in relation to information obtained by them. Councillors are also bound by the provisions of the Data Protection Act 2018, and should not use personal data for purposes inconsistent with the purposes for which it was obtained, or otherwise in breach of the data protection principles. If a Councillor is in any doubt as to the uses to which information may be put, (e.g. use of names and addresses whether in hard copy or electronic form) they should seek advice from the Monitoring Officer. Supplementary guidance and advice is available from the Information Commissioner: [www.ico.gov.uk](http://www.ico.gov.uk)

## Handling Councillor and MP Enquiries – Guidance for Councillors

### 1. INTRODUCTION

- 1.1 Elected Members have a responsibility to their constituents (at their discretion) to represent their views to the Council, and are often approached by them to advocate on their behalf. When this happens, the elected Member may contact the department and ask for information about policies and individual cases. This is known as a Councillor or Member of Parliament enquiry. The process for handling these enquiries and ensuring members receive appropriate, sensitive, timely and complete answers to their concerns is handled by the H&F InTouch Team.
- 1.2 This document seeks to set out the role of elected Members, to explain the relationship between elected Members and officers and to outline the Members' enquiry process. It should be read in conjunction with the Protocol for Councillors on Access to Information (also in Part 5 of the Constitution) where relevant.

### 2. ENQUIRIES

- 2.1 Citizens have the right to complain to:
1. the Council itself under its complaints scheme;
  2. the Ombudsman after using the Council's own complaints scheme;
  3. the Monitoring Officer about a breach of the Council's Members' Code of Conduct; and
  4. the Information Commissioner in relation to the Freedom of Information Act 2000 and the Data Protection Act 2018.
- 2.2 Elected Members:
1. Have rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  2. Will not make information that is confidential or "exempt" available to the public without the consent of the Council nor divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

### 3. MEMBERS' ENQUIRY PROCESS

- 3.1 When an elected Member is contacted by a constituent about a concern they have raised, the Member will contact the Council asking for an answer to that enquiry. The Council uses iCasework to manage these enquiries. Members are encouraged to use the Member's Portal to submit their enquiry via iCasework, so that they can monitor the status of the enquiry from receipt to response.

#### Timescales

- 3.2 The Council is committed to responding to all elected Members' enquiries within **eight working days** of receipt of the enquiry. However, enquiries from Cabinet Members are responded to **within a three working days** deadline. Urgent enquiries will be dealt with as soon as reasonably practicable bearing in mind the circumstances.

#### **4. CONFIDENTIALITY**

- 4.1 Elected Members are bound by the rules of confidentiality by their Code of Conduct. This Code of Conduct states that Members 'must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless required by law to do so'.
- 4.2 If an elected Member is enquiring about a case which is particularly sensitive, officers should highlight this in their response and the Chief Officer will ensure the elected Member is made aware of this.

#### **5. THE RELATIONSHIP BETWEEN ELECTED MEMBERS AND OFFICERS**

- 5.1 As a general rule, Councillors are expected to deal only with Chief Officers or Heads of Service. This is because:
- (a) Chief and senior officers are in a better position to provide authoritative information or advice and to generate a swift response;
  - (b) they need to be aware of any questions or complaints raised by members;
  - (c) they are able to respond directly to Members' requests, for example by making a judgment as to whether action could be taken under officers' delegated authority;
  - (d) they are able to investigate and deal with any shortcomings there might be at the point of service delivery; and
  - (e) more junior staff may be intimidated by dealing with a Member enquiry, or may give incorrect information, or may take inappropriate action.
- 5.2 Where an elected Member seeks information about a case from a member of staff below service manager level, they should seek the advice of a senior manager or the Complaints Manager.

#### **6. FURTHER INFORMATION**

- 6.1 If you have any questions about Members' enquiries please contact the Councillor and MP enquiry team: [cllr&mpenquiryteam@lbhf.gov.uk](mailto:cllr&mpenquiryteam@lbhf.gov.uk)

## **Planning and Licensing Guidance for Councillors and Officers**

### **1. BACKGROUND**

- 1.1 This guidance should be read alongside the Council's Members' Code of Conduct which was issued to all Councillors on taking office. The Members' Code of Conduct is set out elsewhere in Part 5 of the Constitution.
- 1.2 This guidance reflects the outcome of the work of the Nolan Committee on Conduct in Local Government, previous work by the local authority associations, and advice issued by the Audit Commission, the former Standards Board for England, the Local Government Ombudsman, and the various professional bodies in the planning field. The guidance also incorporates much of the advice set out in the Local Government Association publication '*Probity in Planning*' published in November 1997. Parts of that guidance (e.g. on site visits) are not considered relevant or appropriate to the handling of planning issues within an inner London Borough, and therefore are not followed by this Council. The guidance also reflects the provisions of Chapter 6, Section 25 of the Localism Act 2011 in relation to predetermination of licensing and planning applications.
- 1.3 While the guidance (with the exception of that relating to predetermination) has no statutory status, failure to observe its recommendations without good reason may be taken into account in any investigations for maladministration, or by the Council's Standards Committee when investigating allegations of breach of the Members' Code of Conduct.

### **2. TRAINING OF COUNCILLORS**

- 2.1 It is the Council's policy to arrange training for all Councillors serving on the Planning and Development Control and Licensing Committees. Councillors must undertake this training prior to serving on these Committees.
- 2.2 In relation to licensing issues, the procedures followed by the Council's Licensing Sub-Committee are set down in detailed guidance documents issued to both the applicant and other interest parties. These will be reviewed in the light of experience of the working of the Licensing Act 2003. Further advice for Councillors and officers involved in the licensing process is set out later on in this protocol.

### **3. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 3.1 The basis of the planning system is the consideration of private proposals against wider public interests. While Councillors on the Planning and Development Control Committee will need to take account of the relevant views of their constituents (which also includes those who did not vote for them), they must be careful not to favour any person, group, company or locality, nor put themselves in a position where they appear to do so, during

their involvement in the decision-making process. Nor must they give the impression that they have ‘made up their minds’ in relation to any particular matter before it is determined – see section 8 below.

- 3.2 Councillors serving on the Licensing Sub-Committee must determine each application on the evidence presented by both the applicant and interested parties at a hearing. Councillors need to take account of relevant representations made by interested parties who may or may not be their constituents, but should not favour any person, group, company or locality, nor put themselves in a position where they appear to do so, in making the decision. Councillors are barred from sitting on any Licensing Sub-Committees determining applications which fall within their own wards only where they have a disclosable interest under the Members’ Code of Conduct.
- 3.3 The advice in the Members’ Code of Conduct on dealing with gifts and hospitality can be particularly relevant when dealing with planning and licensing issues. Councillors and officers should be very circumspect in response to any offers of gifts and hospitality, should seek appropriate advice where necessary, and should record in the relevant register any gifts or hospitality they do receive. This applies particularly in circumstances where it is known that planning or licensing applications have been submitted, or are likely to be submitted, by the parties making such offers.

#### **4. DECLARATION AND REGISTRATION OF INTERESTS**

- 4.1 The requirements and guidance for registering and declaring interests are set out in the Council’s Members’ Code of Conduct and in the Officers’ Code of Conduct. The Local Government Ombudsman’s publication ‘*Guidance for Good Practice on Members’ Interests*’ also provides helpful advice.
- 4.2 All Councillors are required to register, and keep up to date, a written declaration of their interests in a Register held by the Monitoring Officer. Officers are required to register their interests on departmental registers, held by their departmental personnel sections.
- 4.3 Detailed guidance on dealing with members’ disclosable interests can be obtained from the Monitoring Officer. The general tests for deciding whether a disclosable interest exists are set out in the Members’ Code of Conduct. Whilst Members are encouraged to obtain guidance and advice on declaring interests from the Monitoring Officer, ultimately, the responsibility for declaring any interest lies with the individual Councillors themselves.
- 4.4 Where a Councillor has declared a disclosable pecuniary interest, they must not take any further part in the proceedings (i.e. not speak or vote) and must withdraw from discussion at the meeting unless a dispensation has been obtained beforehand from the Council’s Standards Committee. This is discussed in more detail below.

#### **5. DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS, OFFICERS AND THE COUNCIL**

- 5.1 In circumstances where current or former Councillors or officers, or their close friends and relatives, are involved in submitting planning applications which would ordinarily be dealt with by officers, it is important that such applications are processed without suspicion of any impropriety. Where situations arise which could, in the opinion of the Monitoring Officer, create significant questions in the minds of the public, such applications should be referred to the Planning and Development Control Committee for determination.
- 5.2 Proposals for the Council's own development should be treated in the same way as those from private developers, in accordance with Circular I9/92, particularly in relation to officer advice.

## 6. LOBBYING OF AND BY COUNCILLORS

**NOTE: This section repeats verbatim paragraphs 7.1 - 7.9 of the LGA Guidance on Probity in Planning.**

- 6.1 *It is important to recognise that lobbying is a normal and perfectly proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the planning committee. As the Nolan Committee's Third Report states. 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is via the local elected representatives, the Councillors themselves'. Any code of conduct which fails to take account of the realities of the political representative process will not carry credibility with experienced elected members.*
- 6.2 *However, such lobbying can, unless care and common sense are exercised by all the parties concerned, lead to the impartiality and integrity of a Councillor being called into question. When being lobbied, Councillors, and members of the planning committee in particular; should take care about expressing an opinion which may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the Committee. If they do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.*
- 6.3 *It should be remembered that the reports on North Cornwall and Warwick were both greatly concerned with the issue of lobbying. In both cases, lobbying had caused considerable public mistrust of the Councils.*
- 6.4 *Councillors and members of the planning committee in particular; need to take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in a transparently open*

*and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality. It is probably misleading to describe the determination of a planning application strictly as a 'quasi-judicial' process (unlike say, certain licensing functions carried out by the local authority), but it is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way in which a decision has been arrived at, or complain to the Ombudsmen on grounds of maladministration.*

- 6.5 *In reality, of course, members will often form a judgement about an application early on in its passage through the system, whether or not they have been lobbied. The difficulty created by the nature of the planning committee's proceedings as set out in paragraph 20 above is that members of the committee (at least those who are not Councillors for the affected ward - see below) should not openly declare which way they intend to vote in advance of the planning committee meeting, and of hearing the evidence and arguments on both sides.*
- 6.6 *Political reality suggests that it is often important to distinguish between the role of the planning committee member who is, and who is not, a ward member for the area affected by a particular planning application. A planning committee member who does not represent the ward affected is in an easier position to adopt a (formally) impartial stance, however strong his or her feelings about the application may be, and to wait until the Committee meeting before declaring one way or the other.*
- 6.7 *A planning committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the member responds to lobbying by deciding to go public in support of a particular outcome - or even campaigns actively for it - it will be very difficult for that member to argue convincingly, when the committee comes to take its decision, that he/she has carefully weighed the evidence and arguments presented -perhaps in some respect for the first time - at committee. Although not amounting to a pecuniary or non-pecuniary interest [nowadays pecuniary or other significant interest] according to the National Code, the proper course of action for such a member would be to make an open declaration and not to vote. This is, however; a severe restriction on the member's wish/duty even to represent the views of the electorate, and in most cases short of such high profile, active lobbying for a particular outcome, it should be possible for a member to give support to a particular body of opinion whilst waiting until the planning committee and hearing all the evidence presented before making a final decision.*
- 6.8 *It should be evident from the previous paragraphs that it is very difficult to find a form of words which covers every nuance of these situations and which gets the balance right between the duty to be an active ward representative and*

*what the (previous) National Code of Local Government Conduct calls the “overriding duty as a Councillor to the whole local community”.*

6.9 *It cannot be stressed too strongly that the striking of this balance is, ultimately, the responsibility of the individual member, and that in doing so, regard needs to be paid to the general rules laid down in the (previous) National Code, particularly paragraphs 4 (‘Whilst you may be strongly influenced by the views of others, and of your party in particular; it is your responsibility alone to decide what view to take on any question which Councillors have to decide’) and 6 (‘You should never do anything as a Councillor which you could not justify to the public).*

6.10 *A local code should also address the following more specific issues about lobbying:*

- *Given that the point at which a decision on a planning application is made cannot occur before the planning committee meeting, when all available information is to hand and has been duly considered, any political-group meeting prior to the committee meeting should not be used to decide how Councillors should vote. The view of the Ombudsmen is that the use of political ‘whips’ at group meetings in this way is contrary to the (previous) National Code, amounting to maladministration. (See also paragraph 4 of the National Code, reproduced above.)*
- *With the exception in some circumstances of ward Councillors, whose position has already been covered in the preceding paragraphs, Councillors should in general avoid organising support for or opposition to a planning application, and avoid lobbying other Councillors. Such actions can easily be misunderstood by parties to the application and by the general public.*
- *Councillors should not put pressure on officers for a particular recommendation.*
- *Councillors who are unsure whether an interest should be declared should seek the advice of the council’s monitoring officer; although, as indicated above, the decision rests with the Councillor.*

## **7. PRE-APPLICATION DISCUSSIONS (PLANNING AND LICENSING)**

7.1 Discussions between a potential applicant and the Council, especially on larger and/or more complex development proposals before the submission of a planning application, can be of considerable benefit to both parties. Potential applicants may seek meetings to discuss fairly detailed proposals, or they may wish to explore basic planning requirements before committing to initial design or even before acquiring a site. In some cases, prospective site purchasers may be in competition and the advice they seek will affect their tender price. In all such cases, it is beneficial for the Council to be able to

advise at an early stage on how planning policy would be applied and known local factors taken into account.

- 7.2 Pre-application discussions on planning matters must be handled carefully, particularly because the prospective applicant will often expect them to take place on a confidential basis for commercial reasons. It is also important to avoid any discussions becoming, or even being seen to be, part of a lobbying process that could prejudice proper consideration of a subsequent planning application and any public consultation.
- 7.3 To avoid problems arising, the following guidelines should be followed (and they apply equally to meetings held after an application has been made):
- It must always be made clear at the outset that the discussion will not bind the Council to making a particular decision on a planning application, and that any views expressed by officers or Councillors are personal and provisional. By the very nature of such meetings, not all relevant information will be to hand; neither will formal consultations with interested parties have taken place.
  - Advice must be consistent and based on the statutory development plan and known material considerations. There should be no significant difference of interpretation of planning policies between planning officers. In addition, all officers taking part in such discussions should make clear whether or not they are responsible for making the recommendation to Committee (or have delegated authority to determine applications).
  - A written note should be made of potentially contentious meetings or telephone discussions, and a follow-up letter will normally be sent when documentary material has been left with the Council. If Councillors are present at meetings, at least one officer should also attend.
  - Care must be taken to ensure that advice is impartial. In cases where there is competition between prospective purchasers or design consultants, officers will prepare a note on the application of normal planning policy and other known material considerations to the site. This will be used to ensure consistency of advice.
- 7.4 Any pre-application discussions on licensing matters are normally between officers and either the applicant or interested parties.

## **8. PREDETERMINATION**

### **Chapter 6, Section 25 of the Localism Act 2011 – prior indications at to view of a matter not to amount to predetermination**

- 8.1 The courts have accepted that Members may be politically predisposed on matters of policy or on the grant or refusal of planning permission on a

particular site. This will only become unlawful predetermination if a Member firmly closes his or her mind to all other arguments and representations.

- 8.2 Section 25 of the Localism Act 2011 has clarified the law in this respect. It provides that a Member should not be taken to have had, or appear to have had a closed mind “just because” they have previously done anything that directly or indirectly indicated what view they might take in relation to a particular decision.
- 8.3 Members are not inhibited from fulfilling their political, democratic and representative roles but they must also be careful to take decisions properly and to be seen to do so. Members should be cautious about making statements which may give the impression that they have already decided an issue before a decision has been made. At all times, Members must go into a decision making meeting with an open mind, prepared to listen to argument and to have careful regard to the advice and material contained in the agenda.

## **9. OFFICER REPORTS TO COMMITTEES**

- 9.1 The LGA guidance sets out five points for officers to take into account in preparing reports on planning applications. These reflect good practice, and failure to adhere to them could give rise to maladministration findings or judicial review of a decision.
- Reports should be accurate, and cover, among other things, the substance of relevant objections and the views of people who have been consulted, as recommended by the Ombudsman in their Guidance Note No 2.
  - Relevant points will include a clear exposition of the development plan, site or related history, and any other material consideration.
  - Reports should have a clear written recommendation of action. Oral reporting (except to update a report) should be extremely rare and carefully minuted when it does occur.
  - Reports should contain a technical appraisal which clearly justifies the recommendation.
  - If the report’s recommendation is contrary to the provisions of the development plan, the material considerations which justify this must be clearly stated.

## **10. PUBLIC SPEAKING AT PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

- 10.1 Only the applicant or their agent and people who have commented on the application as part of the planning department consultation process in support or against are permitted to speak at Planning and Development Control Committee in accordance with the Protocol attached to this Guidance Note.

- 10.2 Written petitions made on a planning application are incorporated into the officer report to Planning and Development Control Committee. Petitioners, as members of the public, are welcome to attend meetings, but are not permitted to speak. They can however be represented by their Ward Councillor, who may address the Committee. Deputation requests are not accepted on applications for planning permission.

## **11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR DEVELOPMENT PLAN**

- 11.1 Officers' reports on planning applications must make clear when proposals are not in accordance with the statutory development plan. All such applications are advertised in accordance with the requirements of Article 8 of the Town and Country Planning (General Development Procedure) Order 1995. Where officers' reports recommend the grant of planning permission for departure applications, the report will include a full justification for the departure, clearly identifying the circumstances which led to a recommendation to override the statutory development plan. The Committee report will be forwarded to the Secretary of State if the application is one which requires referral under the regulations.
- 11.2 If the Committee makes a planning decision contrary to the officers' recommendation (whether for approval or refusal), their reasons for doing so must be made clear and recorded in the Committee minutes. Officers will be able to assist in formulating technically correct reasons for refusal or additional planning conditions based on Members' clearly expressed wishes. If this is the case, it should either happen during the meeting, or be delegated to planning officers by the Committee. This too should be clearly recorded in the minutes.

## **12. SITE VISITS**

- 12.1 Visits by members of the Planning and Development Control Committee to development sites will not normally take place. If, due to the exceptional circumstances of a particular case, it is wished to organise a site visit, this shall be by resolution of the Chair and will involve the attendance of appropriate planning officers as well. The application or enforcement case in question will then be determined either by a subsequent formal meeting of the Committee, or by officers acting under authority delegated to them by the Council, or by specific resolution of the Planning and Development Control Committee.

## **13. PARTY GROUP PRACTICES AT LBHF IN RESPECT OF PLANNING MATTERS**

- 13.1 The Nolan Committee recognised that Councillors exercise, quite properly, two roles in the planning system. They determine applications, and also act as representatives of public opinion in their areas. Nolan recognised the importance of guidance to enable Councillors to achieve the 'delicate balance' in undertaking these two roles. Very prescriptive requirements on, for

example, pre-application discussions, were not favoured by Nolan, as not necessarily being appropriate to all local authorities. It was felt that authorities should have some room to determine their own ground rules, within a local code.

- 13.2 In respect of ‘lobbying’ of and by Councillors, London Borough of Hammersmith and Fulham is content to work within the guidelines developed by the LGA (see Section 6 above). Some additional local factors in respect of party group consideration of planning issues should, however, be noted by Councillors.
- a) The political parties on the Council may develop general policies towards different types of development within the borough and discuss these within group meetings.
  - b) There will be occasions when specific development proposals or planning applications are discussed within pre-meetings, prior to formal determination at Committee. The Council does not consider such discussions to represent the ‘fettering of discretion’ of Councillors subsequently determining planning applications, provided individual Councillors have regard to all relevant considerations at the time of voting on an application.
  - c) The Ombudsman generally regards a planning decision based on whipping as maladministration.
  - d) It is the view of all parties on the Council that the political conventions and practices operated within the Council reflect a proper balance between the two roles Councillors are expected to undertake, as identified by the Nolan Report.

#### **14. COUNCILLORS AND LICENSING SUB-COMMITTEE HEARINGS**

- 14.1 The Council’s Licensing Sub-Committee deals with all licensing applications under the Licensing Act 2003, together with some miscellaneous non-Licensing Act functions, such as street trading.
- 14.2 Where the Licensing Sub-Committee is dealing with an application under the Licensing Act 2003, the Act imposes limitations as to who may appear before the Sub-Committee and make representations to it. (NB: this does not apply to hearings concerning non-Licensing Act functions). In such cases, Councillors do not automatically have a right to attend and make representations by virtue of their office. A member may represent interested parties who have made relevant representations at their request.
- 14.3 However, members whose eligibility to speak arises because they are themselves an interested party will almost certainly have a disclosable interest and will need to consider whether they have a disclosable interest which may prevent them from attending (see below). Members wishing to speak at

Licensing Sub-Committee hearings are advised to obtain advice in advance from the Monitoring Officer or Assistant Director, Legal Services.

## **15. APPLICATION OF THE COUNCILLORS' CODE OF CONDUCT**

- 15.1 A Councillor wishing to attend a Committee meeting will be required to declare a disclosable pecuniary interest and such a Councillor will be precluded from participating in discussion of the matter and may not be present in any capacity when the application is considered by the Committee. In such a case the Councillor may attend the meeting but only for the purpose of making representations, answering questions or giving evidence relating to the matter. They must then leave the room and not participate further in the meeting.
- 15.2 It should be noted that where a Councillor has a disclosable pecuniary interest, they may not be present when it is being discussed by a formal meeting even though this might put them at a disadvantage compared to ordinary members of the public. Councillors may not “act in a personal capacity” so as to avoid the requirements of the Code of Conduct, and this has been confirmed by the Court of Appeal in the case of ***R (Richardson & Others) v North Yorkshire County Council***. Any Councillor considering speaking at a Committee in circumstances where a disclosable pecuniary interest may arise is therefore advised to obtain prior advice from the Monitoring Officer before doing so. It should be noted that while the Council’s Code of Conduct allows a Councillor with a disclosable pecuniary interest to make representations, answer questions and give evidence before leaving the room this only applies if members of the public are also allowed to attend for the same purpose. In other words, this will be of assistance to Members in Licensing matters and in Planning matters. A Member may still make written representations in a private capacity, use a professional representative to act on their behalf or get another Member to represent the views of their constituents.
- 15.3 The facility does exist for Members to obtain dispensations from the Standards Committee where a Committee may become inquorate and in other limited circumstances. Advice on this is available from the Monitoring Officer.

## **Public Speaking at Planning and Development Control Committee Protocol**

Members of the public are welcome to attend the Planning and Development Control Committee meeting.

### **Who can speak?**

Only the applicant or their agent and people who have commented on the application as part of the planning department consultation process in support or against will be permitted to speak at the meeting. They must have been registered to speak before addressing the Committee. Ward Councillors may sometimes wish to speak at meetings even though they are not part of the Committee. They can represent the views of their constituents. The Chair will not normally allow comments to be made by other people attending the meeting or for substitutes to be made at the meeting.

### **Do I need to register to speak?**

All speakers except Ward Councillor must register at least two working days before the meeting. For example, if the Committee is on Wednesday, requests to speak must be made by 4pm on the preceding Friday. Requests received after this time will not be allowed. Registration will be by e-mail only. Requests are to be sent to [speakingatplanning@lbhf.gov.uk](mailto:speakingatplanning@lbhf.gov.uk) with your name, address and telephone number and the application you wish to speak to as well as the capacity in which you are attending.

### **How long is provided for speakers?**

Those speaking in support or against an application will be allowed three minutes each. Where more than one person wishes to speak for or against an application, a total of five minutes will be allocated to those speaking for and those speaking against. The speakers will need to decide whether to appoint a spokesperson or split the time between them. The Chair will say when the speaking time is almost finished to allow time to round up. The speakers cannot question councillors, officers or other speakers and must limit their comments to planning related issues.

**At the Meeting** - please arrive 15 minutes before the meeting starts and make yourself known to the Committee Co-ordinator who will explain the procedure.

### **What materials can be presented to committee?**

To enable speakers to best use the time allocated to them in presenting the key issues they want the committee to consider, no new materials or letters or computer presentations will be permitted to be presented to the committee.

### **What happens to my petition or deputation?**

Written petitions made on a planning application are incorporated into the officer report to the Committee. Petitioners, as members of the public, are welcome to attend meetings but are not permitted to speak unless registered as a supporter or objector to an application. Deputation requests are not accepted on applications for planning permission.

## **Planning Committee – Disclosure of Confidential Information Protocol**

### **1. Introduction**

- 1.1 This Protocol sets out further guidance in respect of requests by Committee members for information relevant to planning matters submitted in confidence by third parties. It should be read in conjunction with the Local Protocol For Councillors On Access To Information in the Council's Constitution. This Protocol deals with information which is exempt from disclosure under the provisions of the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and the Local Government Act 1972.

### **2. The Issue**

- 2.1 Financial viability is a material planning consideration in terms of the likelihood of the proposed development being carried into effect. This can be a very important issue when assessing the acceptability or otherwise of a development proposal, particularly where the proposal may not accord with the targets set by planning policy. The government encourages local planning authorities not to impose requirements on developers which render proposals non-viable unless serious harm would arise. It is frequently the case, that a judgement has to be made regarding the viability of a development proposal and the impact on viability of any changes or obligations which the Council wishes to impose. Issues which typically arise and have most impact on viability include the quantum and density of development, the tenure mix of residential schemes and the scale of any planning obligations to be incorporated within a proposed s106 Planning Agreement.
- 2.2 Furthermore, financial viability is a consideration within the statutory development plan in relation to the provision of affordable housing. It is referred to in both London Plan policy 3.12 and Core Strategy policy H2. Relevant policies are also contained in the draft Local Plan (HO3).
- 2.3 In order for the Council as planning authority to properly determine the effect of planning requirements on development viability, the assessment and negotiation of planning applications frequently involves the consideration of financial and commercial appraisals prepared by developers. The Council's Viability Protocol which it is intended in due course will become part of the Local Plan provides that, where consideration of the financial viability of a development is relevant the applicant must submit an "open book" financial viability assessment (FVA). The local validation list also provides that an FVA must be submitted at the time the planning application is made. The FVA will be publicly accessible along with all the supporting planning application documents. In exceptional circumstances at the request of the applicant, specific elements of the FVA may be treated as confidential and not be made public but only where the applicant has demonstrated that disclosure would cause harm to public interest to such an extent that the harm outweighs the benefits of disclosure.

- 2.4 In such cases where the Council has accepted that information can be provided by an applicant to the Council on a confidential basis the Council is under a duty to not to disclose that information to anyone else unless allowed or required to do so by law. Should the Council breach this duty it may be liable in damages for any loss caused. A member or officer who breaches confidentiality may also find themselves pursued personally by the person to whom the duty is owed in addition to any disciplinary proceedings which may be brought by the Council. It is therefore essential that all such information is carefully protected and where it is lawfully disclosed e.g. to Members, that such disclosure can be justified and that appropriate measures are taken to ensure the Council complies with its obligations. This Protocol applies to such confidential information.

### **3. The Principles**

- 3.1 The legal principles to be applied in relation to a Member's right to access information held by the Council are established in the leading House of Lords case of Birmingham City Council v. O [1983] and can be summarised as follows.
- a) A Member does not have a roving commission to have access to any and every document in the Council's possession.
  - b) Where a Member can establish a "need to know" to carry out their functions as a member then they will have extensive rights to access information, including confidential information.
  - c) It is for the Council (though delegation if it wishes) to decide in any given case whether a "need to know" arises subject to the usual Wednesbury principles.
- 3.2 It should be noted that:
- a) A Member's motive and the use to which they intend to put the information are highly relevant to establishing a "need to know". An improper motive may vitiate a request.
  - b) Each request must be decided on its merits and on the basis of a properly made request.
  - c) In cases where the matter is not clear cut the final decision rests with the Council and the Courts will only interfere with such a decision where it can be shown to be irrational.
  - d) The Council has a duty to balance the rights of its Members with the rights of third parties who have submitted information in confidence.
  - e) The right to have access to information does not necessarily confer a right to a copy of the information in permanent form.
  - f) Under the Council's Constitution decisions as to whether a "need to know" is established are delegated to the relevant Chief Officer.

### **4. Financial & Commercial Information & Committee Reports**

- 4.1 As with all Council decision makers, the Committee is under a duty when making decisions to take into account all relevant matters. It follows that sufficient information must be contained in officers' reports to permit intelligent consideration of all relevant matters. However, public administration would be impossible if Members were required to consider each and every relevant document in full and it is well established that Members may rely on officers to summarise and filter information and to present it in a digestible and readily understandable form.
- 4.2 For example, in the case of *English v. East Staffordshire Borough Council* [2010] it was held that it was perfectly proper for the committee to take a decision where the "gist" of the information but not the detail was provided in the report and had been subject to independent scrutiny. The committee had not requested the detailed information and had considered the contents of the report sufficient to enable them to properly consider the application.
- 4.3 The planning officers' report to committee must, where relevant to an application under consideration, make explicit how financial viability has been considered in the assessment of the application and the formulation of the officers' recommendations. In some cases, reliance will have been placed on assessment of viability data by in-house specialist property staff. In other cases external professional advice will have been sought from a valuation / accountancy company instructed by the Council and independent from the developer. As well as the original financial appraisal material submitted by the developer, there may be a written assessment provided by the professional valuation / accountancy advisors drawing conclusions from their independent review of the material provided by the developer. The officers' report should summarise the gist of such material and independent advice without disclosing any commercially confidential exempt data.

## **5. Requests for Confidential Information**

- 5.1 Requests by Members for confidential information relating to planning matters should always follow the requirements of the Constitution which provides as follows:

*"1.1 All requests for documentation from Councillors should be routed through the Director, or where the Director is not available and the request is urgent, then it should be made to an Assistant or Deputy Director, or Head of Service as appropriate. It would be for the Councillor to explain why their particular request needed an urgent response.*

*1.2 Councillors are requested to:*

- Be as specific as possible about the documentation that they wish to see;*
- Normally make the request in writing;*
- State the reason for wanting the information, and the purpose to which it will be put."*

- 5.2 In addition, requests in relation to confidential planning information must always be made in writing and provide full reasons in order that they may be relied upon in any subsequent litigation.
- 5.3 Where a Member considers that they require the information in relation to an upcoming committee meeting and they consider the treatment of the matter in the published officers' committee report to be inadequate then they shall provide full reasons for this belief in good time before the meeting, by writing to or e-mailing the Director and they should copy the request to the Chair who may at his discretion consult with other committee members. In such circumstances the Director shall consult with the Chair before reaching a decision. The Director shall provide reasons in writing for his decision.
- 5.4 Where the Director concludes that the information should be disclosed they may impose such conditions as they consider reasonable in the circumstances to protect the Council including requiring the Member to sign a confidentiality agreement undertaking not to share or disclose any of the information to any other person and allowing inspection of documents only rather than the provision of permanent copies.
- 5.5 It follows that if a Member has been granted access to commercially sensitive financial information provided to the Council in confidence, no reference to it can be made in public. The *nature* of the appraisal and the conclusions of any independent assessment or review of it can be discussed at the planning committee, but there must be no discussion or disclosure of any of the commercially sensitive material or data contained within it in open session.

## Guidance on Gifts and Hospitality

1. The previous National Code of Local Government Conduct set out the position in respect of gifts and hospitality in paragraphs 27-29 as follows:

*“You (Councillors) should treat with extreme caution any offer or gift, favour or hospitality that is made to you personally. The person or organisation making the offer may be doing, or seeking to do, business with the council, or may be applying to the council for planning permission or some other kind of decision.*

*There are no hard and fast rules about the acceptance or refusal of hospitality or tokens of goodwill. For example, working lunches may be a proper way of doing business, provided that they are approved by the local authority and that no extravagance is involved. Likewise it may be reasonable for a member to represent the council at a social function or event organised by outside persons or bodies.*

*You are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government. The offer or receipt of gifts or invitations should always be reported to the appropriate senior officer of the council”.*

2. This advice still holds true in respect of the relevant paragraph of the Council’s Members’ Code of Conduct, to which regard must be paid. This states that Councillors must, **within 28 days** of receiving any gift or hospitality with an estimated value of at least **£50**, provide written notification to the authority’s Monitoring Officer of the existence or nature of the gift or hospitality, which is classed as a personal interest (see paragraph 6 of the Members’ Code of Conduct).
3. As with employees, Councillors should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority or community. Offers to attend purely social or sporting functions should only be accepted when these are part of the life of the community or where the authority should be seen to be represented. Some Councillors represent outside or London-wide organisations (e.g. Western Riverside Waste Authority) and may be offered gifts or hospitality in that capacity. Councillors should not accept significant personal gifts from contractors or suppliers, although insignificant gifts or tokens such as pens, diaries etc. up to a value of £50 are acceptable. Modest gifts over this level from constituents, which are tokens of thanks or appreciation, are acceptable so long as:
  - (a) they are unsolicited, and
  - (b) the Councillor did nothing unlawful or out of the ordinary.
4. When receiving hospitality, Councillors should be sensitive to the timing of decisions for letting of contracts or other matters (e.g. planning applications) in

which the provider is involved.

5. There can be no hard and fast rules in respect of hospitality. However, given the numerous events to which Councillors may be invited, the following advice is offered, although the responsibility both for accepting and declaring hospitality remains with individual Councillors. In each of the criteria listed, it is assumed that there is a valid link with the Council and the Councillor. The following are generally considered to be acceptable, but should be registered through the declaration form:
  - sit down meals
  - any hospitality involving alcohol (even if the individual does not partake)
  - substantial buffets

Generally speaking the following are considered to be *de minimis* and need not be registered:

- tea and biscuits
- sandwiches
- minimal buffets

Having said that, it is conceivable that even normally *de minimis* hospitality could become significant and therefore registerable if it coincides with a decision affecting the giving body.

6. Acceptance of hospitality whilst in attendance at relevant conferences is acceptable where it is clear the hospitality is corporate rather than personal.
7. There is a register of all declared gifts and hospitality. This register is in the form of a database similar to the one used for the declarations of interest by Councillors at meetings, and like that system, would be on the basis of forms submitted by Councillors. Councillors are advised that any gift or hospitality should be recorded on this register. The register is kept by the Monitoring Officer but is available for inspection by any member of the public. It has been registered under the Data Protection Act. In the case of hospitality or gifts received as a representative of an outside body, Councillors should declare that gift/hospitality to both this authority and to that organisation.
8. In addition to recording all gifts and hospitality accepted, Members are encouraged to report all offers of gifts and hospitality declined. This is to encourage transparency and maintain public confidence in the system.
9. Gifts and donations to the Mayor received in the performance of Mayoral duties, including charity fundraising, are excluded from this process as they are covered by other audit controls.

## **Guidance for Members and Officers on the Requirement to Declare Related Party Transactions**

### **1. INTRODUCTION**

The requirement for Members and Chief Officers to declare Related Party Transactions has been considered by the Accounting Standards Board as fundamental to the presentation of the Council's published accounts. It has been introduced nationally in the belief that the truth and fairness of the accounts can only be readily understood if the reader has knowledge of the related parties to the organisation concerned.

- 1.2 In addition, organisations should be open and disclose transactions with such related parties to ensure that stakeholders are aware when related party transactions are taking place and the values of such transactions. Advice issued by the Audit Commission to external auditors requires the completion of a signed declaration on an annual basis.

### **2. WHAT IS A "RELATED PARTY"?**

- 2.1 The principal issue in determining whether or not a related party status exists is the degree of control exerted by one party over the other. This can arise during a financial period where:

- one party has direct or indirect control of the other party;
- one party has influence over the financial and operational policies of the other party; or
- the parties are subject to common control or influence from the same source.

- 2.2 It should be noted that the disclosure requirement relates to transactions, not to the existence of a related party interest.

- 2.3 Put simply, the objective is to identify any transactions which may have taken place as a result of the control or influence exercised by one party over another. The concern is that such transactions may not be, or may not be perceived to be, in the best interests of the Council.

### **3. WHO ARE THE RELATED PARTIES OF A LOCAL AUTHORITY?**

- 3.1 The Accounting Code of Practice for Local Authorities issued by the CIPEA sets out the regulations to be followed in preparing Local Authority final accounts for 1998/99. It identifies the main related parties for a local authority. Of particular relevance to these guidance notes is the inclusion of Members and chief officers of the Council. Other related parties include:

- Central Government;
- Local Authorities and other bodies either precepting or levying demands on the council tax;
- Any subsidiary and associated companies;
- Any joint ventures and joint venture parties;

- The pension fund.

#### **4. ARE FAMILY, HOUSEHOLD AND BUSINESS INTERESTS AFFECTED?**

- 4.1 Yes. When considering who is a related party, regard is also taken of transactions involving members of the close family or same household of any individual listed. In addition, if any individuals are associated with partnerships, companies, trusts or any entities in which they or a member or their close family or the same household, have a major interest, transactions with that organisation should also be disclosed.

#### **5. EXAMPLES OF QUALIFYING INTERESTS**

- You own a company or have a major shareholding in a company which contracts with the Council.
- A close relative or a member of your household owns a company or has a major shareholding in a company which contracts with the Council.
- You hold a position of influence within a voluntary organisation that receives grants from or provides services to the Council.
- You (or a close relative, or a member of your household) are in receipt of income from an organisation that relies upon the Council for funding, e.g. a voluntary group.
- No specific limit has been given for what constitutes a major shareholding, but, as a broad guideline, more than 20% of the total should be taken as coming within the scope of these requirements.

#### **6. EXAMPLES OF RELEVANT TRANSACTIONS**

- Payments under contract for the purchase or sale of assets, e.g. land transactions or equipment supplied to the Council.
- Payments under contract for the supply of services to the Council, e.g. printing or building contracts or the management of Council services.
- Payments or loans to chief officers of an exceptional nature not covered by normal contracts of employment.

The requirement also extends to non-financial transactions, of which some examples are:

- The provision of a guarantee in relation to a liability or obligation of a related party, e.g. a loan guarantee to a sports club in which a member or chief officer holds a position of influence.
- The reduction or waiving of a charge for services, e.g. free use of facilities for particular individuals or groups.

#### **7. ARE THERE ANY EXCEPTIONS?**

- 7.1 Yes. Where transactions are common to all individuals, they need not be declared. For example, there is no need to declare payments of Council tax, rent or Housing Benefit, which are transactions that would occur whether or not the individual was a related party to the authority.

- 7.2 This principle can be applied to cover any payment or benefit which arises under circumstances for which there is a statutory scheme or for which the Council has established eligibility criteria, e.g.:
- housing renovation grants;
  - mandatory or discretionary student awards;
  - planning consents;
  - provision of care services;
  - season ticket or car loans.

## **8. IS WHAT I DECLARE LIKELY TO BE DISCLOSED IN THE COUNCIL'S ACCOUNTS?**

- 8.1 It can generally be assumed that it will. However, disclosure will not be required in the accounts when the dealings between the Council and related party are not considered to be material. The Strategic Director of Finance has to assess materiality in relation to the authority, and also in relation to the related party. Consequently, a figure which may not be material to the Council's balance sheet would still be disclosed if it was material to the finances of the individual concerned. It has been suggested that transactions above £5,000 be considered material for the purposes of this disclosure.
- 8.2 If any disclosure becomes likely, a draft of the proposed disclosure note will be provided to the individual for comments prior to publication.

## **9. HOW DO I MAKE MY DECLARATION?**

- 9.1 Each year you will be asked to sign a form of declaration. This will be kept securely and confidentially by the Strategic Director of Finance. If you have any related party transactions to disclose, the form asks for brief details of the transaction and the sums involved. The form should be returned to the Strategic Director of Finance.

## **Guidance for Councillors and Officers Involved in Outside Organisations**

### **1. INTRODUCTION**

- 1.1 Councillors are often appointed or nominated by the authority to represent it on the management committees of outside bodies, or will be involved in such bodies in their own personal capacity either as ordinary members or as members of the management committee board of trustees, executive committee etc.
- 1.2 The authority generally encourages Councillors and officers to be active citizens and to participate in the wider community in this manner. Not only does it enable the authority to participate in partner organisations, but it also means that Councillors and officers bring back to the authority additional knowledge and experience which are of value to the authority. However, if Councillors or officers are to take on such additional roles, it is important that they appreciate the responsibilities which they are taking on, understand how these responsibilities interact with their existing responsibilities to the authority, and recognise and deal with any conflicts of interest which may arise.

If you are appointed or nominated by the Council it is vital that you read this guide and bear it in mind when carrying out your duties.

### **General Responsibilities and Liabilities of Members of Managing Bodies**

- 1.3 Any member of a managing body has a responsibility to take the task seriously, attend meetings and carry out work for the organisation. Some organisations have rules about attendance (e.g. missing a number of consecutive meetings may lead to loss of the place on the committee). In view of the very considerable demands on Councillors' time and energy, it is prudent to check what is expected before accepting a place and to be clear what commitment can be made right from the start so that the organisation does not have unrealistic expectations.
- 1.4 In participating in outside bodies, Councillors and officers act both as individuals and, in some instances, as representatives of the authority. This entails:
- (a) **Positively**
- acting according to the rules, constitution and framework set by the outside body;
  - making independent and personal judgments in line with the duty of care to the outside body;
  - possibly reporting back to the authority, where they have been appointed by the authority;
  - behaving ethically and following as far as applicable the authority's

local Code of Conduct for Members or the National Code of Conduct for Officers;

- taking an active and informed role in the management of the outside body's affairs.

(b) **Negatively**

- Unless appointed specifically to represent the authority, it does not entail following instructions from the authority;
- It does not entail following instructions from a political party to which the Councillor may owe their political loyalty;
- It does not entail avoiding taking part in the outside body's discussions and decisions;
- It does not entail looking at things simply from the Council's perspective;
- It does not entail being there in name only and merely turning up to meetings.

1.5 The role of Councillors or officers on outside bodies may give rise to occasional conflicts of interest. If any matter relating to the outside body comes up in the course of the Councillor's work as a Councillor, or in the officer's work for the authority, it is likely that the Councillor or officer will have a significant interest which they will have to disclose. Where the conflict is such that it might be considered likely to affect the way that the Councillor would vote or act as a Councillor, they may have not only to disclose the outside interest but to take no part in the consideration of the matter.

1.6 In a very few and extreme cases, if there is a major dispute between the Council and the outside body, the Councillor or officer could be placed in an untenable situation. It is possible that the Councillor or officer may find they are unable adequately to carry out their responsibilities properly, both as a Councillor or officer and as a member or director of the outside body. But such circumstances would be rare and should not deter Councillors or officers generally from being prepared to participate in the management and running of outside organisations.

1.7 Because there is always a potential for conflict between the interests of the authority and the outside body, Councillors and officers who are thinking of taking on such an outside interest should consider how that interest will affect their ability to continue to act as a Councillor or as an officer. Councillors and officers are asked to read the guide and if there are issues arising from their particular situation at any time, to contact the Monitoring Officer for advice.

1.8 This advice is for Councillors and officers who represent the Council on organisations outside the Council, for example as a company director, the trustee of a charity or a member on a management committee. It sets out some of the most important responsibilities. It is not meant to be a comprehensive guide. If Councillors or officers have specific queries, the Monitoring Officer would be happy to advise you.

## **2. GENERAL ADVICE**

- 2.1 Local authorities are often asked to nominate Councillors and officers to take part in outside bodies. The range of such external activities is very wide.
- 2.2 If you are asked to allow the authority to put your name forward, you should ask the authority for a clear statement of what will be expected of you. Any organisation which asks the authority for such a nomination should be able to provide this information. If it is unable to provide such information, you should ask whether you want to be a member of such an organisation.
- 2.3 You will probably be agreeing to be a member of that outside body because it is active in an area which is of particular interest to you. But you should be aware that the rules on such outside interests may limit your ability to continue to take an active part in this topic within the authority. You may have to disclose membership of the outside body in your dealings with the authority. Where any conflict of interest arises between the outside body and the authority, it is likely that you will have to withdraw from any consideration by the authority of any matter affecting the outside body, unless the outside body is another public authority, or you are appointed strictly as the representative of the authority. This aspect is dealt with in more detail below.
- 2.4 As a member of an outside body, you will be expected to participate fully in that organisation. If your other commitments mean that you will regularly have to miss meetings of the organisation, or that you have to withdraw from meetings because of conflicts of interest, you will be doing that organisation no favours, and this may reflect badly on the authority which put your name forward. If you neglect your responsibilities to that outside body it is even possible that you will incur a personal liability. Therefore do not allow your name to be put forward unless you are satisfied that you can participate fully in that organisation.
- 2.5 In almost all circumstances you will owe a duty to act in the best interests of that body. You will have to exercise your own best judgement and you cannot just take instructions from the authority. It is permissible to take account of the authority's wishes, but in any conflict, you must act in the best interests of the outside body. The Council recognises this in appointing or nominating you.
- 2.6 Your responsibilities as a member of an outside body depend on the legal form of that body. The principal forms are:

### **(a) Statutory corporations**

These are bodies which are set up under by statute. There is a wide range of such statutory corporations, including school governing bodies, universities, combined Police and Fire Authorities, and many "quangos". The members of the statutory corporation, such as the governors of a school, and how they are appointed is set out in the statute, as are the powers of the statutory corporation. That statute

will also set out the responsibilities and liabilities of members of the corporation.

**(b) Companies**

Companies are separate legal entities which are set up by their members, who may be either shareholders or guarantors. In a company limited by shares, each member's personal liability is limited to the face value of their shares. In a company limited by guarantee, their personal liability is limited to the value of their guarantee, which may be as little as £1. The structure of the company, and its powers, in terms of the activities which it may undertake and its powers to buy and sell land, employ staff or enter contracts are defined in its Memorandum and Articles. Directors of companies can incur personal liability, particularly if the company becomes insolvent. Industrial and Provident Societies (IPSs), are similar to companies, but the member's liability is limited to their annual subscription to the association. This legal structure is popular for housing associations.

**(c) Unincorporated Associations**

Unincorporated associations are more or less informal organisations, in which the members regulate their relationship by a contract, such as a membership agreement or the rules of the club or association. Because the association has no legal existence separate from its members, there can be no limited liability. Each member incurs full personal liability for their own actions, and relies on the membership contract to be able to recover their costs from the other members.

**(d) Charities**

Some companies and unincorporated associations are also charities. To be a charity, the body or organisation must satisfy the Charity Commissioners that it is directed to charitable objectives. As a charity, it gains relief from corporation tax, VAT and business rates, but is subject to stricter regulation by the Charity Commissioners, to ensure that it is properly managed and that it is spending its money properly on the charitable objects.

It is vital that you understand the nature of the body, your duties to it and potential liabilities.

**3. COMPANIES**

- 3.1 On incorporation a company becomes a separate legal entity which can hold property in its own right, enter into contracts, employ staff and sue and be sued in its own name. The company is distinct from its members, who may be either shareholders or guarantors.
- 3.2 Companies limited by shares are those which have a share capital (e.g. 1000

shares of £1 each). Each Member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold, although there may be restrictions requiring the shares to be offered to existing shareholders. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company, or the amount of their guarantee. This can be as little as £1.

- 3.3 Companies limited by guarantee are those where there is no shareholding. Instead each Member agrees that in the event of the company being wound up they will agree to pay a certain amount. This may also be as little as £1.
- 3.4 Where a company is a trust, it is not permitted to distribute any profit to its shareholders, but must ensure that any such profit is ploughed back into the business. Trust companies are normally limited by guarantee, and this form of company is the most usual form in the public and voluntary sector, particularly where charitable status is sought.
- 3.5 The management of a company is generally the responsibility of a board of directors, elected by the members of the company. The powers of the directors are usually set out in the company's Articles of Association (the rules each company has to govern its internal management). Sometimes even though the company has been incorporated the directors may be referred to as members of the committee of management, governors or even trustees. However this does not change their status as directors. Conversely, sometimes officials are called directors but they are not members of the board. Again their status will not be affected. Directors are those who are appointed by the company to act in the capacity.

### 3.6 **Directors' Duties**

A director is an agent of the company. Their prime duties are as follows:

- (1) A fiduciary duty to the company (not to individual shareholders) to act honestly and in good faith and in the best interests of the company as a whole. Directors are therefore in the position of "quasi trustees" who must take proper care of the assets of the company. The fiduciary duty of the director towards the company is very similar to the fiduciary duty of Councillors to the Council Tax payers of the London Borough of Hammersmith and Fulham.
- (2) A general duty of care and skill to the company. So long as the company remains solvent, a director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. A director is not deemed to be an expert, but is expected to use due diligence and to obtain expert advice if necessary. However if the company becomes insolvent, the Court may expect that the director brings an appropriate level of skill, competence and experience to the job.

- (3) Like a Councillor in respect of Council decisions, the director is under a duty to exercise independent judgement, though it is permissible for them to take account of the interests of a third party which they represent. In such a case the director must disclose that position and treads a fine line between the interests of the company and the party represented (in this case the authority). The director cannot vote simply in accordance with the authority's instructions. To do so would be a breach of duty.
- (4) No conflict. There may be actual or potential conflicts between the interests of the company and those of the authority. The Councillor or officer cannot waive their statutory responsibilities as a director. So they may have to cease to act as a Councillor or officer in relation to the particular matter.
- (5) Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association. Equally, officers are not allowed under cover of their office to take any more than their proper remuneration. They must obtain the consent of their employing authority if they are to receive any remuneration from a company to which they have been appointed by their employing authority.
- (6) Directors must ensure compliance with the Companies Acts in relation to the keeping of accounts, and that the relevant returns are made to the Registrar of Companies. Directors of charities have similar responsibilities to ensure compliance with charities law. Failure to do so may incur fines and persistent default can lead to disqualification as a director.

### **3.7 Directors' Liabilities**

- (1) The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address and if any of the directors' names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
- (2) A company can only act within the scope set out in its Memorandum of Association (the document which sets out the objects of the company). A director who knowingly causes the company to act beyond the activities set out in the Memorandum can be liable personally. In very limited circumstances it is possible for the actions of the directors to be ratified by the members of the company after the event.
- (3) A director may also be liable for breach of trust, if they misapply the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they

are aware.

- (4) In the event of failure to act in accordance with the best interests of the company, or if a director uses their powers improperly or makes personal profit from their position as director, then the director may be personally liable for loss to the company and may be required to give the company the personal profit made.
- (5) If the level of skill and care shown by a director falls below that which could be reasonably expected and the company suffers loss, the director will be liable for the loss incurred. However if it believes the director acted honestly and reasonably, a Court may excuse the director liability.
- (6) If a company continues to trade despite the fact that the directors know or ought to know that there is no reasonable prospect of the company meeting its liabilities, this is "wrongful trading". Where a director participates in wrongful trading, a Court may require that director to meet any creditor's additional losses resulting from the failure of the company to cease trading as soon as it knew that it could not remain solvent. No such order will be made if the Court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position they could be well advised to inform the other directors and seek advice from the company auditors.
- (7) A director will also be liable if to their knowledge the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
- (8) All cheques and similar documents which purport to be signed on behalf of the company must bear the company name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company, (e.g. Director, for and on behalf of...)
- (9) A third party who enters into a contract on the assumption that a director has power to bind the company, may be liable to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
- (10) Though company liability ceases on dissolution the liability of the directors (if any) may still be enforced after dissolution.

### 3.8 Indemnities

- (1) Councillors who are directors cannot be indemnified by the company against liability arising out of negligence, default, or breach of duty or trust. However the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the Court or acquitted. It is lawful for companies to purchase insurance to protect its directors against claims of negligence, breach of duty, trust, default etc. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.

### 3.9 Local Authorities (Companies) Order 1995

- (1) This Order, made under the Secretary of State's powers contained in Part Five of the Local Government and Housing Act 1989, sets out rules concerning local authorities' involvement in "regulated companies" which are subject to extensive controls, and their involvement in other companies where a number of rules apply.
- (2) "Regulated companies" are so defined if they are controlled or influenced by the local authority. "Influenced companies", under the effective control of the local authority, will be subject to the capital finance regime and special property controls. In broad terms, the test as to whether companies are local authority influenced is whether the local authority has the right to or in fact does exercise a dominant influence over the company in question.
- (3) The original concept of controlled influenced and minority interests in companies were introduced by the 1989 Act. "Influenced" means at least 20% local authority interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company was located on local authority land leased or sold for less than best consideration. "Controlled" means over 50% local authority interests, and "minority" less than 20% interest. The concept in the 1989 Act stands, but the Order introduces the term "regulated".
- (4) A local authority influenced or controlled company must state this on all business documents.
- (5) Councillors or officers who are directors of outside companies to which they have been nominated by the Council are under the following obligations:-
  - (a) (Councillors only) that the remuneration they receive from the company should not exceed that received from a local authority and should be declared.
  - (b) to give information to Councillors about their activities required by the local authority (save for confidential information) and

- (c) to cease to be a director immediately upon disqualification of being a Councillor or termination of their employment by the Council.

You will be notified by officers if you are appointed to a regulated local authority company.

#### **4. CHARITIES**

4.1 To be a charity an organisation must operate for a charitable purpose. There are four such charitable purposes:

- the relief of poverty and human suffering
- the advancement of education
- the advancement of religion
- another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

4.2 To register as a charity the organisation must submit its completed constitution (usually Certificate of Incorporation and the Memorandum and Articles of Association of a company limited by guarantee) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such.

4.3 Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee even though they are not strictly trustees. Trustees of a charity retain personal liability, and can only delegate to the extent that the constitution authorises them so to do.

#### **4.4 Trustees' Duties**

- (1) Trustees must take care to act in accordance with the constitution and to protect the charity's assets. They are also responsible for compliance with the Charities Acts, and should note the particular requirements of the Acts in respect of land transactions.
- (2) Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duty with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals, and in relation to investment matters.
- (3) Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.

- (4) If charitable income exceeds £10,000, the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
- (5) Trustees are under a duty to ensure compliance with all relevant legislation (e.g. in relation to tax and land matters).

#### 4.5 Trustees' Personal Liability

- (1) Generally a trustee incurs personal liability if they:
  - acts outside the scope of the trust deed
  - falls below the required standard of care
  - acts otherwise than in the best interests of the charity, in a way which causes loss to the charity fund
  - makes a personal profit from the trust assets

In such circumstances the trustee will incur personal liability for losses incurred.

- (2) If in doubt, always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if they act in accordance with the advice given.
- (3) Trustees of a trust can be liable personally to third parties unless the trust is also a company, and therefore has a separate legal identity from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should seek an indemnity from their successors. If the charity is a company, the trustees will be protected from liabilities incurred in the day-to-day running of the charity in the normal course, but will be personally liable if they commit a breach of trust (see (1) above).
- (4) Trustees may be liable to fines if they do not comply with the duty make returns etc.

#### 4.6 Indemnities

An indemnity can be given from the trust fund provided the trustees have acted properly and within their powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds the trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

### 5. MANAGEMENT COMMITTEES

#### 5.1 Unincorporated Associations

Groups which are not charitable trusts or companies are "unincorporated associations" and have no separate legal identity from their members. The rules governing the members' duties and liability will be set out in a constitution which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and may register as a charity.

5.2 Property will have to be held by individuals as the association has no legal existence of its own.

### 5.3 **Duties**

Broadly, management committee members must act within the constitution, and must take reasonable care in exercising their powers.

### 5.4 **Liabilities**

- (1) Generally, the management committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.
- (2) If one person is appointed by the constitution to act as the agent of the organisation for certain purposes, then that person acts as the agent for all the members, who have joint liability for the agent's actions.
- (3) Members of the committee of management will have personal liability if they act outside the authority given to them or if they do not comply with statute e.g. the payment of employees' tax etc.

### 5.5 **Indemnities**

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution.

## 6. **REQUIREMENTS OF THE MEMBERS' CODE OF CONDUCT**

6.1 Under the provisions of the Localism Act 2011, the Council has adopted a Members' Code of Conduct. Each member of the authority, elected or co-opted, is required to sign an undertaking to observe the provisions of the Members' Code of Conduct.

6.2 The requirements of the Members' Code of Conduct can be summarised as:

- a. a requirement to comply with the "Nolan" principles of standards in public life;

- b. a requirement to notify the authority's Monitoring Officer of any disclosable pecuniary interests which information will then be included in a public register of interests;
- c. a requirement that a Member may not participate in a meeting or vote or remain in the room during discussion when they have a disclosable pecuniary interest in a matter being considered.
- d. a requirement that a Member disclose significant interests (which may include membership of outside bodies) when present at a meeting and, if the interest may give rise to a perception of a conflict of interests in a matter under discussion, to consider whether to withdraw from the meeting.

### **6.3 General Rules of Conduct**

The Council's Members' Code of Conduct sets out some general rules of conduct which must be observed by Members. The most important rules, in the context of outside interests are as follows:

- “Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the London Borough of Hammersmith and Fulham area or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account, but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.”

## **7. REGISTRATION AND DISCLOSURE OF OUTSIDE INTERESTS FOR OFFICERS**

### **7.1 Declaration of Interests**

Section 117(1) of the Local Government Act 1972 requires that, if it comes to the knowledge of any officer of a local authority, that the authority has entered or proposes to enter into any contract in which they have a pecuniary interest, whether or not they would actually be a party to the contract, they must give notice in writing to the authority. There is a difficulty with this provision as the definition of a pecuniary interest has now been repealed, but it must be taken as any circumstance in which they or a member of their immediate family

stand to gain or lose financially as a result of the contract.

## **7.2 Registration of Interests**

Most local authorities require officers to declare any interests which they have, both upon appointment and as those interests change, and enter those declarations in a register which is not available to the public but is accessible by other officers who have a "need to know".

## **8. GIFTS AND HOSPITALITY**

- 8.1 Members and officers must never accept any gift or consideration as an inducement for doing or forbearing to do anything in their roles as members or officers of the authority. Indeed, where officers accept any such gift or consideration from anyone who has or is seeking a contract with the authority, the gift or consideration is deemed to have been accepted corruptly unless the officer can prove to the contrary. It is therefore very important to be completely open about any significant gift or hospitality, to avoid the suspicion of misconduct.
- 8.2 Members are required by the Council's Members' Code of Conduct to notify the Monitoring Officer of receipt of any gift or hospitality with a value of more than £50, whatever the motivation for such a gift.
- 8.3 A particular issue arises for officers seconded to work on behalf of outside bodies, as Section 117(2) of the Local Government Act 1972 provides that an officer shall not, under colour of his office or employment, accept any fee or reward whatsoever other than their proper remuneration. It is therefore essential that, where an officer is to be seconded and might be in receipt of any remuneration, bonus or allowances from the authority to which they are to be seconded, that the seconding authority agree that their proper remuneration shall henceforth include any remuneration, bonus or allowances paid to the officer by the body to which they are seconded.

## **Appendix 1 – Responsibilities of Management Committees or Other Governing Bodies**

### **Main responsibilities of the committee**

The main responsibilities of the management committee or other governing body are:

- to maintain a long term overview of the organisation and all its work;
- to make strategic and major decisions about the organisation's objectives, policies and procedures;
- to ensure the needs and interests of relevant people and bodies are taken into account when making decisions;
- to ensure adequate resources (especially people and money) to carry out the organisation's activities;
- to monitor progress towards objectives, and other work;
- to take legal responsibility for the organisation and all its actions (or inaction). If the organisation gets into legal or financial trouble, members of the management committee or other governing body can in many cases be held personally liable.

### **Legal responsibilities**

The legal responsibilities of the management committee or other governing body can be divided into 10 main areas.

### **Constitutional objects and powers**

The management committee or other governing body is responsible for ensuring the organisation carries out its objects (aims or purposes) and operates within its powers according to the constitution, so committee members must know what the objects and powers are and understand what they mean. A good committee will always consult users, managers, staff and volunteers before making major decisions.

If an organisation with charitable status operates outside its objects or powers, the Charity Commission can require the charity trustees personally to pay back to the charity any money used for these activities.

### **Procedures and Accountability**

The management committee or other governing body is responsible for ensuring the organisation carries out its business according to its constitution and good practice. Part of the constitution relates to why the organisation exists and the type of activities it is supposed to carry out; a constitution also defines how the organisation is supposed to conduct its business. It is the committee's responsibility to ensure these rules are followed. Specific responsibilities include:

- serving as a well-informed, interested, supportive committee;

- maintaining democratic procedures and accountability;
- holding meetings regularly, and ensuring members have the information needed to make decisions;
- calling the annual general meeting and ensuring elections and other essential items are dealt with as required,
- ensuring adequate communication between the committee, subgroups, managers, staff, volunteers, and the organisation's users, members, clients, residents or other people served by the organisation.

### **Legal obligations and undertakings**

Statutory obligations exist in law and must be met: for example having to register under the Data Protection Act if the organisation keeps information about recognisable living individuals on computer, or having to give contracts of employment to staff who normally work eight or more hours per week. It is the responsibility of the management committee or other governing body to ensure the organisation meets these obligations.

Legal undertakings are legally binding commitments which the organisation chooses to enter into: for example renting premises, hiring staff, leasing a photocopier or entering into a contract to provide services. It is the responsibility of the committee or other governing body to ensure the organisation can and does meet the terms of any such undertaking.

If the organisation is incorporated as a company limited by guarantee or is registered as an industrial and provident society (IPS) it can enter into legal undertakings in its own name. If it is not a company or an IPS it cannot enter into a legally binding agreement in its own name, so this will have to be done by individuals, usually the organisation's elected officers, acting on behalf of the organisation. Anyone who signs a legal document must be authorised to do so, by a proper decision made by the committee, and must clearly indicate they are signing on behalf of the organisation.

To protect themselves as well as the organisation, members of the management committee or other governing body should be satisfied the organisation is meeting its legal obligations with respect to:

- contracts of employment and employment legislation;
- equal opportunities legislation (Race Relations Act, Sex Discrimination Act, Disabled Persons Acts);
- lease, licence or tenancy agreements;
- Health and Safety at Work Act, Offices, Shops and Railways Premises Act and other health and safety legislation;
- insurance requirements,
- financial record-keeping and information, income tax, national insurance, other taxes, VAT;
- bank accounts, loans, overdrafts;

- fund-raising and grants;
- work done by the organisation under a service agreement or contract;
- the Data Protection Act.

### **Financial responsibility and accountability**

The management committee or other governing body is responsible for ensuring the organisation has enough money to carry out its work, meets its financial obligations when they are due, accounts for all its financial dealings and does not get into financial trouble. This includes not only the payment of bills but also ensuring proper records are kept and the organisation's money is spent in the correct way. This means the management committee or other governing body has ultimate responsibility for:

- wages, tax, national insurance, statutory sick pay and maternity pay, pensions, redundancy pay, and any other pay or benefits due to workers under legislation or the terms of their contracts;
- mortgages, rent, rates;
- insurances; -
- all other bills; -
- ensuring the organisation will have enough money to meet any financial obligations when they come due;
- ensuring all grants or other funds received for specific purposes are spent as specified;
- ensuring the organisation is being paid enough for any services it is providing under a service agreement or contract;
- ensuring the organisation's funds are wisely invested;
- ensuring the organisation keeps accurate and comprehensible financial records, accessible to management committee members and authorised members of staff;
- receiving regular financial reports in a form which committee members can understand;
- ensuring annual accounts are drawn up and audited in accordance with the constitution and, where relevant, funders' requirements and/or legislation. (For details of financial liability see Appendix 2).

### **Employment and Volunteers**

In most voluntary organisations the management committee or other governing body is legally the employer, with responsibility for hiring, supporting and if necessary firing staff.

Even if some aspects of employment are delegated to staff or a personnel subcommittee, the committee as a whole is responsible for ensuring the organisation has appropriate procedures to draw up and regularly update job descriptions; ensure

adequate funding to pay staff; advertise appropriately, shortlist, interview and select staff; issue and abide by contracts of employment; ensure there is appropriate induction, training, supervision, support, and ideally regular reviews; assessment procedure for staff; deal with complaints and grievances; undertake disciplinary and redundancy proceedings.

If some or all of the organisation's work is carried out by volunteers the committee has legal responsibility for them and their work. The committee should ensure they are adequately inducted and supported and there are appropriate disciplinary and grievance procedures.

If a staff member or volunteer acts negligently, for example by giving incorrect advice to a client or not looking after a child properly in a community nursery, members of the governing body could be found negligent if the organisation does not have and enforce proper procedures for recruiting and training staff, setting standards, monitoring work and maintaining a safe environment.

### **Equal Opportunities**

It is the responsibility of the management committee or other governing body to ensure the organisation complies with equal opportunities legislation (Race Relations Act, Sex Discrimination Acts, Equal Pay Act, Disability Discrimination Acts). But good practice goes far beyond the legislation. If the organisation is concerned about equal opportunities (and the Council believes that all voluntary organisations should be) it is the committee's responsibility to ensure the organisation has a clear statement of intent on equal opportunities and a workable code of practice setting out how it will make its statement a reality, and to ensure the code of practice is implemented and monitored.

### **Premises and equipment**

A management committee or other governing body generally has overall responsibility for the use, safety and security of premises used by the organisation and must ensure they are properly and legally managed and used. This includes:

- making decisions about major change of premises use. Day to day decisions about use (for example bookings) might be delegated to staff or volunteers but are still the ultimate responsibility of the committee;
- ensuring adequate finance and insurance;
- setting conditions for bookings, hire of premises, licences and similar requirements;
- developing and implementing a health and safety policy covering all aspects of the organisation's work;
- ensuring the organisation meets public health and fire regulations and precautions;
- ensuring adequate security for premises, equipment and people;
- approving alterations, repairs and renovations;
- ensuring planning and building regulations are met.

## **Insurance**

The management committee or other governing body is responsible for ensuring all insurances are taken out and paid. Some insurances are compulsory:

- employer's liability insurance must be held by any organisation with paid staff, and the certificate of insurance must be prominently displayed at the organisation's office; - public liability insurance covers injury, loss or damage caused to any person (including volunteers and management committee members) as a result of the organisation's negligence;
- if an organisation has vehicles it must have third party insurance, which covers injury or death caused to other people;
- buildings insurance and/or plate glass windows insurance are not required by law but might be required by the terms of a lease or mortgage.

Other insurances are discretionary but organisations funded by London Borough of Hammersmith and Fulham are required to have contents insurance.

## **Legal status**

The management committee or other governing body must ensure the organisation meets its legal obligations if it is a company limited by guarantee, an industrial and provident society, a friendly society and/or a registered charity. Any organisation registered under the Companies Acts, the Friendly Societies Act or the Industrial and Provident Societies Act must meet the requirements of the relevant Act.

Organisations which fail to do so can face heavy fines, as can individual members of the management committee or other governing body. Responsibilities include:

- preparing annual accounts and balance sheets, having them audited and submitting them to the Registrar of Companies or Registrar of Friendly Societies;
- holding the annual general meeting as required by the constitution, electing directors (management committee) and submitting annual returns to the Registrar;
- notifying all changes of director to the Registrar.

In charities the charity trustees (usually the same as the management committee, but not necessarily) have responsibility for:

- preparing annual accounts, having them audited as required and submitting them to the Charity Commission and Inland Revenue;
- filing an annual report and annual return, as specified in regulations under the Charities Act 1993, with the Charity Commission; - ensuring all the organisation's activities fall within the charity's objects and are charitable as defined by law - indicating on all the charity's documents, invoices, cheques and publications that it is a registered charity.

## **Everything else**

Finally, the management committee or other governing body is responsible for any other legal or moral responsibilities which might apply. This could include, for example:

- conditions imposed by funders.
- legislation applicable to certain types of work, such as housing associations, work with children or people considered vulnerable, work with dangerous machinery or equipment, food handling, lotteries or public events.

## **Appendix 2 – Liabilities of Organisations and Members**

### **Liabilities**

Members of the management committee or other governing body are generally legally responsible for what the organisation does only if they have the right to vote on the committee. So co-opted members or representatives of other bodies without voting rights would not usually have any liability for what the organisation does. If an individual who represents another body has voting rights on the committee any legal liability rests with the individual, not the organisation which they are representing.

The legal liability of members of the management committee or other governing body is determined by the legal status of the organisation. This depends on whether the organisation is unincorporated or incorporated.

### **Unincorporated organisations**

An unincorporated organisation does not have a legal identity of its own. In law, it is simply a collection of individuals.

Unincorporated organisations cannot officially enter into contracts or other legal agreements in their own name. If they want to rent property, employ people, borrow money or take legal action, this has to be done (or will legally be assumed to have been done) by individuals acting on behalf of the organisation. If they want to own property, the property will be legally held by individuals (holding trustees) on behalf of the organisation.

Some unincorporated organisations are registered as friendly societies or trusts, but most are unregistered associations. An unregistered association is not accountable to anyone except its own members and funders.

If an unincorporated organisation gets into debt or has other legal problems, the people who have responsibility for the organisation (the management committee, if there is one, or all the members) can be held personally responsible for the difficulties. They have legal liability for whatever mess the organisation gets itself into.

### **Ways to limit individual liability**

There are several ways to reduce the risk to individual members of the management committee or other governing body.

- Members of the governing body must always act sensibly and responsibly in making decisions about the organisation. This means getting proper information from staff or professional advisers, discussing issues fully, and not taking on obligations they know the organisation might not be able to fulfill.
- Individuals who sign legal or financial undertakings should make it clear, in writing, they are signing on behalf of the organisation rather than as individuals. If possible, they should indicate that their liability 'is limited to the extent of the assets of the organisations'.

- If an individual committee member thinks a decision is irresponsible, they can be publicly disassociated from it. If this disassociation is properly minuted, the individual may not be held responsible for any liability arising from the decision.
- The organisation should have all legally required insurances and sufficient other insurance to cover possible claims.
- It is possible to get insurance to indemnify (repay) committee members for any personal liability they incur on behalf of the organisation.
- If the organisation hires several staff, owns premises, or has other long term financial commitments, it should consider incorporation.

### **Incorporated organisations**

An incorporated organisation has an existence of its own, as a legal body separate from its individual members. The organisation can, in its own name, rent or buy property, hire workers, borrow money or take legal action. This is sometimes referred to as having legal personality.

- In a company limited by shares members (shareholders) invest money in the company in order to make a profit. This structure is not appropriate for voluntary organisations but is sometimes used for trading subsidiaries.
- An industrial and provident society (IPS) is a genuine co-operative, or a business or industry 'acting for the benefit of the community'. A community business, housing association or voluntary organisation involved in producing and selling goods or other training activities can become an IPS.
- A company limited by guarantee is an appropriate structure for a voluntary group which exists for a social or political reason and puts any profits back into the group. Most voluntary or community groups which incorporate become companies limited by guarantee.

### **Extent of individual liability**

The members of a company limited by guarantee will guarantee (promise) to pay a small amount, usually £1 or £5, if the organisation gets into financial trouble. Their liability is normally limited to this amount. However, if the company becomes insolvent and is wound up following wrongful trading (where directors knew or ought to have known before the company went into liquidation that there was no reasonable prospect that the company would avoid liquidation) or, fraudulent trading (where the company business was carried on to defraud creditors), directors and other members of the company may be ordered to contribute to the company assets.

Members of the company might be all the current members of the organisation, the founding members, or some or all of the members of the management committee or other governing body. This will be set out in the constitution, which is called the Memorandum and Articles of Association. The memorandum sets out the organisation's objects and what it can do (its powers); the articles set out its rules and procedures.

The liability of company directors (usually the same as the management committee) is limited in the same way. However company directors can lose this protection if it can be shown that they have acted negligently (irresponsibly) or fraudulently (dishonestly). And under the Insolvency Act 1986 company directors can be held personally liable in cases of wrongful trading. This is where a company continues to operate when the directors know, or could reasonably have been expected to know, that it does not have a reasonable hope of being able to meet its financial obligations when they come due.

If the company is also a charity, the company directors will also be charity trustees. As trustees they can be held personally liable (even though the organisation is incorporated) if the charity's funds are used for purposes which are outside its objects or powers.

To a large extent incorporation reduces the risk of members of the management committee (or separate board of directors, if there is one) being held personally liable if the organisation gets into debt or gets into other difficulties. But there is still considerable risk if the committee operates irresponsibly.

All registered charities must have charity trustees (sometimes called managing trustees) who have ultimate responsibility for the organisation. In some charities the trustees delegate some management responsibilities to another body, which might be called a management committee but does not have ultimate responsibility. In this situation the relationship between the two groups must be clearly set out in terms of reference.

Charity trustees cannot 'profit' from the charity. This means they cannot be employed by the organisation, even for part-time or temporary work. Conversely, employees of a charity cannot be trustees and cannot be voting members of the committee if the committee is also the trustee body. (Employees can, of course, attend meetings and participate if the trustees so wish).

Most charities must submit their accounts each year to the Charity Commission and to the Inland Revenue if they want to claim the tax benefits which charities enjoy.

The Charity Commission can advise on any aspect of charity registration or charity law, and should be contacted if there is any doubt about what a charity can and cannot do.

### **Incorporation of charity trustees**

It is possible for a charity to incorporate its trustee body, while not incorporating the organisation as a whole. This enables the organisation to own property and enter into contracts or other legal arrangements in its own name, rather than through individuals acting on behalf of the organisation. This type of incorporation does not, however, limit the personal liability of the trustees in any way. Further information is available from the Charity Commission.

## Information Security Policy Statement

### Background, Objectives and Scope

Information in all forms is an essential business asset which must be protected. The Council<sup>15</sup> believes that it is crucial to achieve the right balance between making information more widely available to the public whilst ensuring that adequate protection is in place.

This Policy demonstrates the Council's commitment to ensuring the Confidentiality, Integrity, Availability and compliance of our information assets. Effective Information Security Management enables the secure sharing of information and the continued provision of high quality services to the Public, the maintenance of legal and other compliance requirements, and the overall reduction of business risk.

This Policy applies to all officers, contractors and elected members (“users”) who use any of the Councils’ information and systems or those held by third-parties and partners on our behalf. It is supported by detailed security policies and guidelines which are considered an integral part of this Policy.

### Key Responsibilities

The Chief Executive of the Council together with the Senior Leadership team are responsible for mandating Information Security and approving this Policy.

The Information Management Board is responsible for keeping the Chief Executive and Senior Leadership Team updated with the Council’s compliance status and incident reports.

Managers are responsible for applying the Policy and the related good working practices in their business area; ensuring their staff have been trained and comply with the requirements; and monitoring their third-parties and partners.

Users are responsible for ensuring they understand and adhere to the security requirements, and complete the required training and awareness tasks within the given timescale.

The Information Management Team is responsible for the management of Information Security on behalf of the Council; maintaining this Policy, providing advice and guidance on its implementation and investigating security breaches.

### Policy Statement

It is the policy of the Council that:

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<sup>15</sup> Original version approved by 3 councils (Hammersmith & Fulham, Royal Borough of Kensington & Chelsea, Westminster City Council) in 2016, version 1.2 updated in 2022 to reflect sovereign H&F contact details and names of teams/roles ahead of next major H&F policy update.

- All information is appropriately handled, with extra care taken when sensitive;
- Risks to the confidentiality, integrity, availability and compliance of information assets are identified, evaluated, corrected and reviewed regularly;
- All relevant business, contractual, regulatory and legislative requirements are met; but that any exception is fully evaluated, documented and approved by the Information Management Board.
- An information security training awareness and competency programme is delivered to all users at a level appropriate to their need and business area;
- Business continuity plans are produced, maintained and tested regularly;
- All actual or suspected breaches of information security are reported, investigated and corrected in a timely manner.

### **Exceptions**

An exception or deviation to this policy may be granted if it conflicts with business need. Exceptions must be supported by a written business case and a valid risk assessment signed-off by the senior information asset owner.

Exceptions will be reported to the Information Management Board on a quarterly basis and signed off by the Head of Information Management (on behalf of the Senior Information Risk Owners (SIROs)).

### **Monitoring and Breach of Policy**

All user activity is lawfully logged for the purposes of monitoring compliance with the Council's policies, responding to incidents and preventing, detecting or investigating crime.

Appropriate disciplinary action will be taken against users who are found breaching these requirements, including but not limited to dismissal, civil or criminal proceedings and fines.

### **Communication and Review**

This Policy will be communicated to all users when they join the Council and annually thereafter.

It will be reviewed annually or earlier if a major change is necessary.

*Document version: v1.2*

## Local Code of Corporate Governance

### Introduction

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.

The Corporate Governance framework consists of seven core principles and the following sets out the actions taken by the London Borough of Hammersmith & Fulham in relation to each principle of corporate governance.

#### Principle 1

Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.

The London Borough of Hammersmith & Fulham:

- Ensures that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect.
- Ensures that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols.
- Puts in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and puts in place appropriate processes to ensure that they continue to operate in practice.
- Develops and maintains shared values including leadership values both for the organisation and for staff reflecting public expectations, and communicates these with members, staff, the community and partners.
- Puts in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards and monitors their continuing effectiveness in practice.
- Develops and maintains an effective Standards Committee to deal with Member Code of Conduct issues.
- Uses the organisation's values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority. In pursuing the vision of a partnership, agrees a set of values against which decision making and actions can be judged. Such values will be demonstrated by partners' behaviour both individually and collectively.

## **Principle 2**

Ensuring openness and comprehensive stakeholder engagement.

The London Borough of Hammersmith & Fulham:

- Makes clear to itself, all staff and the community to whom it is accountable and for what.
- Considers those institutional stakeholders to whom the authority is accountable and assesses the effectiveness of the relationships and any changes required.
- Produces an annual report on the activity of the scrutiny function.
- Ensures clear channels of communication are in place with all sections of the community and other stakeholders and puts in place monitoring arrangements and ensure that they operate effectively.
- Holds meetings in public unless there are good reasons for confidentiality.
- Ensures that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements will recognise that different sections of the community have different priorities and will establish explicit processes for dealing with these competing demands.
- Establishes a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.
- On an annual basis, publishes a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- Ensures that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.
- Develops and maintains a clear policy on how staff and their representatives are consulted and involved in decision making.

## **Principle 3**

Defining outcomes in terms of sustainable economic, social and environmental benefits.

The London Borough of Hammersmith & Fulham:

- Develops and promotes the authority's purpose and vision.
- Reviews on a regular basis the authority's vision for the local area and its implications for the authority's governance arrangements.

- Ensures that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners.
- Publishes an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance.
- Decides how the quality of service for users is to be measured and makes sure that the information needed to review service quality effectively and regularly is available.
- Puts in place effective arrangements to identify and deal with failure in service delivery.
- Decides how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively.
- Considers the environmental and social impact of policies, plans and decisions.

#### **Principle 4**

Determining the interventions necessary to optimise the achievement of the intended outcomes.

The London Borough of Hammersmith & Fulham:

- Sets out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the authority's approach towards putting this into practice.
- Sets out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers.
- Determines a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for the collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required.
- Makes the Chief Executive responsible and accountable to the authority for all aspects of operational management.
- Develop protocols to ensure that the leader and chief executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.
- Makes a senior officer (the S.151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- Makes a senior officer responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.

- Develops protocols to ensure effective communication between members and officers in their respective roles.
- Sets out the terms and conditions for the remuneration of members and officers and an effective structure for managing the process, including an effective independent remuneration panel for members' allowances.
- Ensures that effective mechanisms exist to monitor service delivery.
- Ensures that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.
- When working in partnership, ensures that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority.
- When working in partnership, ensures that there is clarity about the legal status of the partnership; ensures that representatives of organisations both understand and make clear to all other parties the extent of their authority to bind their organisation to partner decisions.

### **Principle 5**

Developing the entity's capacity, including the capability of its leadership and the individuals within it.

The London Borough of Hammersmith & Fulham:

- Provides induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis.
- Ensures that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority.
- Assesses the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.
- Develops skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- Ensures that effective arrangements are put in place for reviewing the development needs of individual members and provides a personal development plan to address them.
- Ensures that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.
- Ensures that career structures are in place for members and officers to encourage participation and development.

## **Principle 6**

Managing risks and performance through robust internal control and strong public financial management.

The London Borough of Hammersmith & Fulham:

- Develops and maintains an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.
- Develops and maintains open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.
- Puts in place arrangements to safeguard members and employees against conflicts of interest and puts in place appropriate processes to ensure that they continue to operate in practice.
- Develops and maintains an effective Audit Committee and Standards Committee which are independent of the executive and scrutiny functions.
- Ensures that effective, transparent and accessible arrangements are in place for dealing with complaints.
- Ensures that those making decisions whether for the authority or the partnership are provided with information that is founded on good quality data and fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.
- Ensures that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.
- Ensures that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their job.
- Ensures that effective arrangements for whistle blowing are in place to which officers, staff and all those contracting with or appointed by the authority have access.
- Actively recognises the limits of lawful activity placed on the authority by, for example, the ultra vires doctrine but also strives to utilise its powers to the full benefit of the community.
- Recognises the limits of lawful action and observes both the specific requirements of legislation and the general responsibilities placed on the authority by public law.
- Observes all specific legislative requirements placed upon the authority, as well as the requirements of general law, and in particular to integrate the key

principles of good administrative law – rationality, legality and natural justice – into its procedures and decision-making processes.

### **Principle 7**

Implementing good practices in transparency, reporting and audit, to deliver effective accountability.

The London Borough of Hammersmith & Fulham:

- Implements good practice in transparency. Reports for public consumption are written in a fair, balanced and understandable style with the use of Plain English and are appropriate to the intended audience ensuring they are accessible and easy to interrogate.
- Ensures that there is a balance between providing the right amount of information to satisfy transparency demands to enhance public scrutiny of the Council's activities.
- Implements good practice in all reporting, including reporting annually on performance, value for money and stewardship of resources in a timely and understandable way, including ownership of the results reported.
- Ensuring robust arrangements exist including good governance demonstrated by the publication of an Annual Governance Statement with an action plan for any improvements in governance.
- Ensuring information that accompanies financial statements is prepared on a consistent and timely basis.
- Promoting accountability through assurance, including ensuring recommendations for corrective action made by Internal and External Audit and regulatory bodies are acted upon.

Gaining assurance on risks associated with the delivery of services and through third parties at the same time ensuring there is an effective internal audit service with direct access to members in place. Welcoming peer challenge, reviews and inspections from regulatory bodies.

## **LOCAL CODE OF CORPORATE GOVERNANCE PRINCIPLES**

1. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
2. Ensuring openness and comprehensive stakeholder engagement.
3. Defining outcomes in terms of sustainable economic, social and environmental benefits.
4. Determining the interventions necessary to optimise the achievement of the intended outcomes.
5. Developing the capacity and capability of members and officers to be effective.
6. Managing risks and performance through robust internal control and strong public financial management.
7. Implementing good practices in transparency, reporting and audit, to deliver effective accountability.

### **A. Key Documents: Regular / Annual Review or Production**

- Medium Term Financial Strategy
- Strategic Leadership Team Collective Key Tasks
- Service Delivery Plans
- Statement of Accounts
- Internal / External Audit Protocol
- Key performance indicators
- Service Improvements and Programmes
- Finances (statistics)
- Messages (consultation)
- Risk Registers & Assurances
- Borough E-Communications
- External Audit Report to those charged with Governance
- External Audit and Inspection Letter
- Budget Monitoring Reports
- Annual Reports on Scrutiny, Standards, and Internal Audit
- Annual Governance Statement

### **B. Key Documents: Ad hoc Review or Production**

- Constitution including Standing Orders
- Communications Strategy
- Consultation Strategy
- Equal Opportunities Policy
- Scheme of Delegation
- Financial Procedure Rules
- Procurement Policy and Strategy
- Procurement Contract Standing Orders
- Freedom of Information Publication Scheme

- Workforce Strategy
- Health, Safety, Welfare and employment policies
- Environmental Strategy
- Data Quality Framework
- Data Security Policy
- IS/IT Strategy
- Protocol - Member/Officer Relations
- Members Code of Conduct
- Officers' Code of Conduct
- Whistleblowing Policy
- Partnership Working Guidelines
- Risk Management Policy Statement
- Published Agendas, Reports & Minutes of Committees

### **C. Contributory Processes / Regulatory Monitoring**

- Audit Committee, Pension Fund Committee, Standards Committee
- Policy and Accountability Committees
- Residents' Commissions
- Independent Remuneration Panel for Members Allowances
- Service Management Teams
- Monitoring Officer role
- S.151 officer role
- Head of Paid Service responsibilities
- Customer Complaints / Feedback Process
- Finance Board
- Community Safety Programme Board
- Residents consultation
- Job Descriptions and Person Specifications
- Job Evaluation Process
- Employee Induction and Employee Surveys
- Learning and Development Programme -Employees/Members
- Employee Personal Development Framework
- Personal Development Plans
- Criminal Conviction Checks
- Inspectorate Reports
- Health and Safety Officers
- Website Publications
- Internal Audit and Counter Fraud Plans
- Fraud Awareness Training
- External Audit
- Gift and Hospitality Registers for Employees and Members
- Members Register of Interests
- Annual Review of Internal Audit, Risk Management and Governance Arrangements
- London Borough of Hammersmith & Fulham Service Reviews

## **PART 6 – MEMBERS’ ALLOWANCES SCHEME**

## **Members’ Allowances Scheme 2023-24**

### **Effective from 1 April 2023**

This scheme is made in accordance with the Local Authorities (Members’ Allowances) (England) Regulations 2003 (“the Regulations”) for 2022/2023 and subsequent years. The allowances scheme has been prepared having regard to the report of the Independent Panel on the Remuneration of Councillors in London established by London Councils on behalf of all London Councils, co-authored by Mike Cooke (Chair), Sir Rodney Brooke CBE DL and Anne Watts CBE and published in January 2022.

#### **1. Basic Allowance**

- 1.1 The Independent Remunerator’s report suggests a flat-rate basic allowance be paid to each member of the authority of £12,014 per annum to be paid in 12 monthly instalments on the 15th of each month.
- 1.2 The Council has considered the independent remunerator’s recommendation but has decided to set lower levels of allowances than those recommended.
- 1.3 It proposes to increase basic and special responsibility allowances are uplifted in line with the pay settlement for employees.

The basic rate allowance for all Hammersmith & Fulham Councillors will therefore be £9,744.60 - to be paid in 12 monthly instalments on the 15th of each month.

Councillors only receive an allowance for the period of their term of office in cases where it is less than the whole financial year.

	No.	Basic Allowance	Total
All Councillors	50	£9,744.60	£487,230

#### **2. Special Responsibility Allowances**

- 2.1 Regard has been had to the recommendations in the independent remunerator’s report for differential banding in relation to the payment of special responsibility allowances (SRAs), but in line with the Administration’s priorities, it has been decided to not to follow the independent remunerator’s recommendations which would have proved considerably more costly to local council taxpayers.
- 2.2 The following Special Responsibility Allowances shall therefore be paid to Councillors holding the specified offices indicated:

<b>Position</b>	<b>No</b>	<b>SRA Entitlement</b>	<b>Total SRA</b>
The Leader	1	£35,083.50	£35,083.50
Deputy Leader	1	£29,229.88	£29,229.88
Other Cabinet members	8	£23,385.08	£187,080.62
Chief Whip (where not a member of Cabinet)	1	£23,385.08	£23,385.08
Chair, Overview and Policy Board	1	£23,385.08	£23,385.08
Deputy Chief Whip (2)	2	£6,065.52	£12,131.05
Chair of Policy & Accountability Committees	6	£6,065.52	£36,393.14
Leader of the Opposition	1	£17,534.39	£17,534.39
Deputy Leader of the Opposition	1	£6,065.52	£6,065.52
Opposition Whip	1	£6,065.52	£6,065.52
Chair of Planning and Development Control Committees, Audit Committee*, Pensions Fund Committee, Licensing Committee (4)	3*	£6,065.52	£18,196.57
Vice Chair of Planning and Development Control Committees	1	£6,065.52	£6,065.52
The Mayor	1	£15,200.00	£15,200.00
Deputy Mayor	1	£6,065.52	£6,065.52
Lead Members **	7	£2,943.00	£20,601.00
<b>Total</b>	<b>36</b>		<b>£ 442,482.37</b>

\* This portfolio holder receives only one SRA in respect of duties undertaken.

\*\* There are twelve positions. However, seven portfolio holders will receive only one SRA in respect of duties undertaken.

Councillors only receive an allowance for the period of their term of office in cases where it is less than the whole financial year. A Special Responsibility Allowance would cease where the SRA entitled post ceases to exist during year.

### **3. Other Allowances**

#### **Dependent Carer Allowance**

- 3.1 Dependant carer allowance is payable in respect of expenses incurred for the care of a Councillor’s children or dependants in attending meetings of the authority, its Executive, Committees and Sub-Committees and in discharging the duties set out in paragraph 7 of the Regulations.

- a) £5.98 per half hour before 10pm; £6.25 per half hour after 10pm (not payable in respect of a member of the Councillor’s household).

#### **Travel and Subsistence**

- 3.2 Travel allowances are payable (at the same rates as employees) for duties undertaken away from the Town Halls when discharging duties under

paragraph 8 of the Regulations. There will be no payment for intra-borough travel under this scheme unless where a member requires assistance to discharge his or her duties due to ill health, disability or other circumstances approved by the Monitoring Officer. Taxis can be taken by Members who attend approved outside bodies and committee meetings out of the borough.

**Public Transport**

- a) Actual travel costs (second class only) will be reimbursed.

**Car mileage**

- b) 45 pence per mile.

**Subsistence**

- c) Allowance payable at same rates and conditions as employees. Payment is only made for expenses incurred outside the Borough and is subject to a maximum of £5.00 per claim.

**Sickness, maternity and paternity allowance**

- d) Where a Member is entitled to a Special Responsibility Allowance, it will continue to be paid in the case of sickness, maternity and paternity leave on the same terms as employees.

**4. Annual increase**

- 4.1 The updated allowances in this scheme apply from 1 April 2023. Any future allowance uplifted will be in line with the pay settlement for employees (as communicated by London Councils) and backdated to 1<sup>st</sup> April 2023.

**5. Election to forego allowances**

- 5.1 In accordance with the provisions of regulation 13, a Councillor may, by notice in writing to the Chief Executive, elect to forego any part, or all, of his or her entitlement to an allowance under this scheme.

**6. Time limit for claims**

- 6.1 The majority of allowances are payable monthly, but where allowances are the subject of claims, these claims should be made in the agreed form with the appropriate declaration within six months of the duty to which they relate.

**7. Membership of more than one authority**

- 7.1 A member may not receive allowances from more than one authority (within the meaning of the regulations) in respect of the same duties.

**8. Non-entitlement to more than one SRA**

- 8.1 A member shall not receive more than one SRA in respect of duties undertaken with the authority. Where a Councillor is entitled to two SRAs, he or she will be paid the highest allowance.

**9. Pensions**

- 9.1 No members of the Council shall be entitled to membership of the Local Government Pension Scheme in accordance with Section 7 of the Superannuation Act 1972.

**10. Allowances for co-opted members and independent members of The Pensions Sub Committee**

**Co-optees**

- 10.1 Co-opted members shall be paid £549.36 per annum by equal monthly instalments of £45.78 on the 15<sup>th</sup> of each month.
- 10.2 Co-opted members shall be entitled to the same travel and dependent carer allowances as Councillors but shall not be entitled to subsistence payments.

**Independent Members**

- 10.3 The London Borough of Hammersmith & Fulham shall pay an allowance to the appointed Independent Members at a flat rate allowance of £549.36 per annum payable by equal monthly instalments of £45.78 on the 15<sup>th</sup> of each month.

## **PART 7 – MANAGEMENT STRUCTURE**

## **Management Structure**

**Chief Executive and Head of Paid Service**

Sharon Lea

**Strategic Director of Economy**

Jonathan Pickstone

**Strategic Director of Environment**

Bram Kainth

**Strategic Director of Children's Services**

Jacqui McShannon

**Strategic Director of Independent Living (DASS)**

Linda Jackson

**Strategic Director of Finance (Section 151 Officer)**

Sukvinder Kalsi

**Strategic Director, Chief Operating Officer, Corporate Services**

Nicola Ellis

**Director of Law and Governance (Monitoring Officer)**

David Tatlow