



# City of Westminster

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# **CHAPTER 1 – THE CONSTITUTION**

# **1. HOW THE COUNCIL OPERATES**

## **1.1. THE COUNCIL'S CONSTITUTION**

Westminster City Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into chapters which set out the basic rules governing the Council's business and also include more detailed procedures and codes of practice.

## **1.2. WHAT'S IN THE CONSTITUTION?**

The Constitution commits the Council to delivering its priorities providing clear leadership in partnership with local people, businesses and others with a stake in the well-being of the City of Westminster. It explains the rights of citizens and how the key parts of the Council operate. These are:

1. Members of the Council
2. Citizens and the Council
3. The Council meeting
4. The Leader and the Cabinet
5. Committees
6. Joint arrangements
7. Officers and their Delegations
8. Members Allowances
9. Rules, Codes and Protocols
10. Outside Bodies

## **1.3. HOW THE COUNCIL OPERATES**

The Council is composed of 54 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.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee arranges training and advises them on the code of conduct.

All councillors meet together as the 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 elects a Leader who in turn appoints and provides leadership to a Cabinet. The Leader determines the number of Members who may be appointed to the Cabinet subject to the Cabinet not exceeding 10 members of the Council (including the Leader) which is responsible for implementing the policies decided by the Council within the budget set. The Leader must appoint one of the members of the Cabinet to be his/her Deputy who shall, unless he/she resigns as Deputy, or is removed from office as Deputy or ceases to be a Member hold office until the end of the Leader's term of office. The functions of the Cabinet as a body and the functions of individual Cabinet members are determined by the Leader. The Leader's Terms of Reference are agreed by the Council. The Council also appoints Policy and Scrutiny Committees to help in policy formulation and to hold the Cabinet to account for its performance.

The procedure for Council meetings is set out in Chapter 2 of this constitution.

#### **1.4. HOW DECISIONS ARE MADE – THE EXECUTIVE**

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive is made up of the Leader and the Cabinet. When major "key" decisions are to be discussed or made, these are published on the Executive List in so far as they can be anticipated. Meetings of the Cabinet will generally be open for the public to attend except where confidential matters are being discussed. 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.

#### **1.5. HOW DECISIONS AND MADE – COUNCIL FUNCTIONS**

Whilst most decisions are taken by the executive (i.e. by the Cabinet or individual Cabinet Members) a number of important decisions are also taken by the Full Council or by Committees or Sub Committees of the Council e.g. planning and licensing applications.

#### **1.6. POLICY AND SCRUTINY**

Policy and Scrutiny committees support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by scrutinising matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its

policies, budget and service delivery. Policy and Scrutiny committees also monitor the decisions of the executive. They can 'call-in' a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

The work of the Policy and Scrutiny Committees is co-ordinated by the Westminster Scrutiny Commission which also scrutinises the work of the Leader of the Council.

## **1.7. THE COUNCIL'S STAFF**

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 code of practice governs the relationships between officers and members of the council.

## **1.8. CITIZENS' RIGHTS**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in [Chapter 1 of this Constitution](#). Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Service can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- i. vote at local elections if they are registered;
- ii. contact their local councillor about any matters of concern to them;
- iii. obtain a copy of the Constitution;
- iv. attend meetings of the Council and its committees except where confidential matters are being discussed;
- v. petition to request a referendum on a mayoral form of executive;
- vi. find out what major 'key' decisions are to be discussed by the executive or decided by the executive or officers, and when;
- vii. attend meetings of the executive;
- viii. see reports and background papers, and any record of decisions made by the Council and executive;
- ix. complain to the Council about any aspect of the City Council's services; or if they think the Council has not followed its own procedures properly.

- x. complain to the Monitoring Officer if they have evidence which they
- xi. think shows that a councillor has not followed the Council's Code of Conduct;
- xii. speak at meetings of the Full Council in line with procedures and protocols set out in this Constitution; and
- xiii. inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the Access to Information Procedure Rules in Chapter 8 of this constitution.

## **2. MANAGEMENT OF THE CONSTITUTION**

### **2.1. POWERS OF THE COUNCIL**

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

### **2.2. THE CONSTITUTION**

This Constitution, and all its appendices, is the Constitution of the Westminster City Council.

### **2.3. PURPOSE OF THE CONSTITUTION**

The purpose of the Constitution is to:

- i. provide a framework within which the City Council can deliver its agreed policy programme
- ii. provide a framework within which the City Council can provide clear leadership in the City of Westminster in partnership with local people, businesses and other organisations involved in the well-being of the City of Westminster
- iii. provide a means for the Council to innovatively deliver services, meet its performance plan targets and maintain a low tax environment
- iv. help Councillors to represent their constituents effectively
- v. enable decisions to be taken efficiently and effectively in line with the Council's agreed priorities
- vi. support the active involvement of local people in the process of developing and setting City Council and partnership priorities, as well as monitoring the Council and its functions
- vii. create an effective means of holding decision-makers to account and ensure that no-one reviews or scrutinises a decision in which they are directly involved
- viii. ensure that those responsible for decision making are clearly identified to local people and that they explain the reasons for decisions

### **2.4. 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 Monitoring Officer will monitor and evaluate the operation of the Constitution.

The General Purposes Committee, supported and advised by the Monitoring Officer, will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.



## **2.5. CHANGES TO THE CONSTITUTION**

### **(a) Approval**

Changes to the Executive arrangements referred to in the constitution (other than minor drafting or other consequential amendments) will normally only be approved by the full Council after consideration of a proposal by the General Purposes Committee but may on the advice of the Monitoring Officer be referred by him/her directly to Full Council. Other changes will be approved by the General Purposes Committee or the Monitoring Officer acting under delegated powers.

### **(b) Delegated Powers of the Monitoring Officer**

The Monitoring Officer shall have power to amend the constitution:  
to correct errors or comply with any legal requirement;

to implement decisions of the Council, Committees, the Leader, Cabinet, Cabinet Member or Officers acting within the scope of their powers in relation to the Constitution.

### **(c) Change from a Leader and cabinet form of executive to alternative arrangements, or vice versa**

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

## **2.6. SUSPENSION OF THE CONSTITUTION**

### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended to the extent permitted within those Rules and the law.

### **(b) Rules capable of suspension.**

The following Rules may be suspended in accordance with these provisions:

- Council Procedure Rules
- Contracts Procedure Rules
- Budget and Policy Framework Rules
- Overview and Scrutiny Procedure Rules

## **2.7. INTERPRETATION**

The ruling of the Lord Mayor (or, as the case may be, person presiding) 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.

## **2.8. PUBLICATION**

The Chief Executive will provide make available a summary copy of this Constitution, which may form part of the Member Induction Programme, to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council, make available a full copy on the Council's Website and provide a full printed copy to any Member upon request.

The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

### **3. ROLES AND FUNCTIONS OF ELECTED MEMBERS**

#### **3.1. COMPOSITION AND ELIGIBILITY**

##### **(a) Composition.**

The Council will comprise 54 Members, otherwise called Councillors. Three councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.

##### **(b) Eligibility.**

In general terms, only registered voters of the City of Westminster or those living or working there, who have reached 18 years of age, will be eligible to hold the office of councillor. (The detailed rules for qualification are set out in Section 79 of the Local Government Act 1972).

#### **3.2. ELECTION AND TERMS OF OFFICE OF COUNCILLORS**

The regular election of councillors will be held on the first Thursday in May every four years. The next elections are due in May 2026. 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.

#### **3.3. ROLES AND FUNCTIONS OF ALL COUNCILLORS**

##### **(a) Key roles**

All councillors will:

- i. collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- ii. contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- iii. effectively represent the interests of their ward and of individual constituents;
- iv. respond to constituents' enquiries and representations, fairly and impartially;
- v. participate in the governance and management of the Council; and
- vi. maintain the highest standards of conduct and ethics.

##### **(b) Rights and duties**

Councillors will, subject to statute and the Council's Constitution, 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 is defined in the Access to Information Rules in Chapter 8 of this Constitution.

### **3.4. CONDUCT**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Chapter 7 of this Constitution.

### **3.5. ALLOWANCES**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Chapter 11 of this Constitution.

## 4. MEMBERS OF THE COUNCIL

<b>Abbey Road</b>	Amanda Langford	(Conservative)
	Alan Mendoza	(Conservative)
	Caroline Sargent	(Conservative)
<b>Bayswater</b>	Maggie Carman	(Labour)
	James Small-Edwards	(Labour & Co-operative)
	Max Sullivan	(Labour)
<b>Church Street</b>	Aicha Less	(Labour)
	Matt Noble	(Labour)
	Aziz Toki	(Labour)
<b>Harrow Road</b>	Concia Albert	(Labour)
	Ruth Bush	(Labour)
	Tim Roca	(Labour)
<b>Hyde Park</b>	Md Shamsed Chowdhury	(Labour)
	Paul Dimoldenberg	(Labour)
	Judith Southern	(Labour)
<b>Knightsbridge and Belgravia</b>	Antony Devenish	(Conservative)
	Elizabeth Hitchcock	(Conservative)
	Rachael Robathan	(Conservative)
<b>Lancaster Gate</b>	Laila Cunningham	(Conservative)
	Ryan Jude	(Labour)
	Ellie Ormsby	(Labour & Co-operative)
<b>Little Venice</b>	Melvyn Caplan	(Conservative)
	Lorraine Dean	(Conservative)
	Sara Hassan	(Labour)
<b>Maida Vale</b>	Geoff Barraclough	(Labour)
	Nafsika Butler-Thalassis	(Labour)
	Iman Less	(Labour)
<b>Marylebone</b>	Barbara Arzymanow	(Conservative)
	Ian Rowley	(Conservative)
	Karen Scarborough	(Conservative)
<b>Pimlico North</b>	Ed Pitt Ford	(Conservative)
	Jim Glen	(Conservative)
	Jacqui Wilkinson	(Conservative)

<b>Pimlico South</b>	Liza Begum	(Labour)
	Robert Eagleton	(Labour)
	Jason Williams	(Labour)
<b>Queen's Park</b>	Patricia McAllister	(Labour)
	Cara Sanquest	(Labour)
	Hamza Taouzzale	(Labour)
<b>Regent's Park</b>	Ralu Oteh-Osoka	(Conservative)
	Robert Rigby	(Conservative)
	Paul Swaddle	(Conservative)
<b>St James's</b>	Louise Hyams	(Conservative)
	Tim Mitchell	(Conservative)
	Mark Shearer	(Conservative)
<b>Vincent Square</b>	Gillian Arrindell	(Labour)
	David Harvey	(Conservative)
	Selina Short	(Conservative)
<b>West End</b>	Paul Fisher	(Labour)
	Patrick Lilley	(Labour)
	Jessica Toale	(Labour)
<b>Westbourne</b>	David Boothroyd	(Labour)
	Adam Hug	(Labour)
	Angela Piddock	(Labour)

## 5. CONSTITUTIONAL RIGHTS OF RESIDENTS

### 5.1. CITIZENS' RIGHTS

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Chapter 8 of this Constitution:

#### a) Voting and petitions.

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Governance. Petitions to the Council can also be submitted on any issues within the Council's responsibilities in accordance with the Council's Petition Scheme in Chapter 9 of this Constitution.

#### b) Information

Citizens have the right to:

- i. attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- ii. attend meetings of the executive subject to the same exceptions;
- iii. find out what decisions will be taken by the executive and when;
- iv. see reports and background papers (except exempt reports), and any records of decisions made by the Council and the executive; and
- v. inspect the Council's accounts and make their views known to the external auditor.

#### c) Participation

Citizens have the right under the Standing Orders relating to Council meetings to:

- i. request that a deputation address the Council on a matter which the Chairman considers is a matter of urgency and relates to an item of business on the agenda for that meeting (whether the request is acceded to is a matter for the Council to decide);
- ii. Submit an e-petition via the Council's website or request a Councillor to present a petition to the Council raising a matter of concern or calling upon the Council to take certain action or refrain from doing so in relation to the matter in question (whether the petition is presented to the Council will be a matter for the Councillor concerned. The decision on what action to take, if any, will be a matter for the Council or the Executive);
- iii. ask a question or present a petition with over 100 signatures to the Full Council and obtain a response from the responsible Cabinet Member or Committee Chair; and
- iv. to request any member of the relevant Policy and Scrutiny Committee to raise an issue of concern for review by the Committee (whether the request is acceded to is a matter for the member concerned).

#### **d) Complaints**

Citizens have the right to complain to:

- i. the Council itself under its complaints scheme:

Stage 1 – When a complaint is initially received it is referred to the local office or service manager to investigate, as they are the staff with the in depth knowledge of the service.

Stage 2 – If the complainant is still not satisfied, they have the right to request a Chief Executive's review. This is undertaken by the Complaints and Customer Manager on behalf of the Chief Executive.

- ii. the Ombudsman after using the Council's own complaints scheme;
- iii. the Monitoring Officer about a breach of the Members' Code of Conduct.

#### **5.2. CITIZENS' RESPONSIBILITIES**

Citizens must not be violent, abusing or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.



## 6. DECISION MAKING

### 6.1. RESPONSIBILITY FOR DECISION MAKING

The Council will issue and keep up to date a detailed record of that part of the Council or individual which has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in this Constitution in particular in Chapters 2 (Council), 3 (The Executive), Chapter 5 (Committees) and Chapter 6 (Delegations to Officers).

### 6.2. PRINCIPLES OF DECISION MAKING

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

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

### 6.3. TYPES OF DECISION

#### a) Decisions reserved to Full Council

Decisions relating to the functions listed in Chapter 2 will be made by the full Council and not delegated.

#### b) Key decisions

"Key decisions" are defined by law as follows:

*A "key decision" means an executive decision which, is likely:*

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or*
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.*

A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Chapter 3 of this Constitution.

### 6.4. DECISION MAKING BY THE FULL COUNCIL

The Council meeting will follow the Council Procedures Rules set out in Chapter 2 of this Constitution when considering any matter.

#### **6.5. DECISION MAKING BY THE EXECUTIVE**

The executive will follow the Executive Procedures Rules set out in Chapter 3 of this Constitution when considering any matter.

#### **6.6. DECISION MAKING BY POLICY AND SCRUTINY COMMITTEES**

The Policy and Scrutiny committees will follow the Policy and Scrutiny Procedures Rules set out in Chapter 4 of this Constitution when considering any matter.

#### **6.7. DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL**

Other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in this Constitution as apply to them.

## **7. GOVERNANCE, INCLUDING FINANCE, CONTRACTS AND LEGAL MATTERS**

### **7.1. OVERVIEW**

The Council recognises that effective local government relies upon maintaining the confidence of the public in both the elected Members and Officers of the Council. The Council continues to keep under review Governance arrangements and related procedures to ensure best practice so that the highest standards are maintained. This is the case both for the Council's own operations and in its Partnership arrangements with other organisations. Partnerships are playing an increasingly important role in the future of policy development and service delivery.

The Council's Code of Governance is regularly updated and sets the standards for the conduct of Officers and Members at the City Council. It is consistent with the principles of the CIPFA/SOLACE Delivering Good Governance in Local Government: Framework. The CIPFA/SOLACE Framework introduced the requirement to produce an annual governance statement from 2007/08. The Annual Governance Statement is also available on the Council's website. The Statement is updated following the end of each financial year.

The Code of Governance is regarded as a particularly significant part of the Council's corporate framework that is included in Chapter 9 of the Constitution.

The Council's documents which relate to Governance are located on the City Council's website.

The Council has an Audit and Performance Committee, independent of both the Executive and the Policy and Scrutiny process as recommended by CIPFA. Its terms of reference include a wide range of responsibilities.

The Council's Standards Committee's main responsibility is to ensure that high standards of Member conduct are maintained. It does this by ensuring that Members attend training on the Code of Conduct, are briefed on relevant issues and receives an annual overview report on complaints about Member Conduct.

### **7.2. FINANCIAL MANAGEMENT**

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

### **7.3. CONTRACTS**

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

#### **7.4. LEGAL PROCEEDINGS**

The Director of Law 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 Director of Law considers that such action is necessary to protect the Council's interests.

#### **7.5. AUTHENTICATION OF DOCUMENTS**

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

All contracts entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

#### **7.6. COMMON SEAL OF THE COUNCIL**

The Common Seal of the Council will be kept in a safe place in the custody of the Director of Law. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Law should be sealed. The affixing of the Common Seal will be attested by the Director of Law or some other person authorised under the City Council's Contract Procedures.

## 8. OFFICERS

### 8.1. MANAGEMENT STRUCTURE

#### a) General

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

#### b) Chief Officers

The Council will engage persons for the following posts, who will be designated chief officers. Chief Officers are defined as Officers employed on the Council's Chief Officers' Terms and Conditions.

<b>Post</b>	<b>Functions and areas of responsibility</b>
Stuart Love Chief Executive (Head of Paid Service),	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.  Representing the Council on partnerships and external bodies (as required by statute or the Council).  Proper Officer for Local and referenda. Proper Officer for Constitutional matters.  Returning Officer for Local, Mayoral and GLA elections and Acting returning Officer for Parliamentary Elections.
Deputy Chief Executive and Executive Director for Adult Social Care and Health, Bernie Flaherty	Adult Social Care and relationships with Health, and Public Health functions.
Executive Director of Corporate Services (Monitoring Officer), Parveen Akhtar	Provision of legal and governance advice to the Council, Electoral Services, Monitoring Officer, People Services, Communications, Policy
Executive Director for Children's Services, Sarah Newman	Schools, Learning, Services for Children, Young People and Families

<b>Post</b>	<b>Functions and areas of responsibility</b>
Executive Director for Regeneration, Economy and Planning, Debbie Jackson	Planning, Place-Shaping, Regeneration, Economy and Skills, City Promotions, Events and Filming
Executive Director for Environment, Climate Change and Public Protection, Frances Martin	Climate Action, Street and Premises Management, Highways Parking, Communities, Sports and Leisure
Executive Director for Finance and Resources, Gerald Almeroth	Chief Financial Officer appointed for the purposes of Section 151 of the Local Government Act 1972, Corporate Property, Digital and Innovation, Strategy and Intelligence
Strategic Director for Commercial Partnerships and Housing, Sarah Warman	Housing Services, Commercial Partnerships inc. Procurement

**c) Head of Paid Service, Monitoring Officer and Chief Financial Officer**

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Director of Law	Monitoring Officer
Executive Director for Finance and Resources	Chief Financial Officer appointed for the purposes of Section 151 of the Local Government Act 1972

Such posts will have the functions described in paragraphs 8.2, 8.3 and 8.4 below.

**d) Structure**

The Head of Paid Service will publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

## **8.2. FUNCTIONS OF THE HEAD OF PAID SERVICE**

### **a) Discharge of functions by the Council**

The Head of Paid Service will report to the Council, and the Executive as necessary, 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.

## **8.3. 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 he or she considers 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) Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

### **d) Conducting investigation**

The Monitoring Officer will conduct investigations into complaints against Councillors and Co-opted Members.

### **e) Proper officer for access to information**

The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible. Prior to determination by the relevant body to determine if reports should be deemed as exempt from public disclosure.

**f) Advising whether executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the executive are in accordance with the budget and policy framework.

**g) Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors and will support and advise officers in their respective roles.

**h) Approval of external legal support**

As the Council possesses an in-house legal service, external suppliers of legal services can only be used by Departments when the Director of Law confirms that the in-house team are unable to meet the requirements on that occasion due to insufficient resources, skills, experience or capacity. The Director will ensure that advice is obtained from the most appropriate source in terms of value for money, quality, and the necessary experience of the provider. The Council's in-house team will support the Department in the matter for which external legal support is approved. Departments will provide the Director with details to assist in helping understand the basis of the need for external advice, the background to the matter and the outcomes being sought.

**i) Restrictions on posts**

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

**8.4. FUNCTIONS OF THE CHIEF FINANCE OFFICER**

**a) Ensuring lawfulness and financial prudence of decision making**

After consulting with the head of paid service and the monitoring officer, the chief financial officer will report to the full Council, or to the executive in relation to an executive function, and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

**b) Administration of financial affairs**

The chief financial officer will have responsibility for the administration of the financial affairs of the Council.

**c) Contributing to corporate management**

The chief financial 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 lawfulness of expenditure, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

**e) Give financial information**

The chief financial officer will provide financial information to the media, members of the public and the community.

**8.5. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER**

The Council will provide the monitoring officer and chief financial officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**8.6. OTHER STATUTORY OFFICERS**

The Director of Public Health shall act as the Statutory Officer under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012. Fatima Zohra is the Council's Data Protection Officer and Clare O'Keefe is the Council's Statutory Scrutiny Officer.

**8.7. CONDUCT**

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

**8.8. EMPLOYMENT**

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

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## **CHAPTER 2 – FULL COUNCIL**

# 1. THE FULL COUNCIL

## 1.1. MEANINGS

a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Children's and Young People's Plan (if such a Plan is produced)
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Licensing Authority Policy Statement
- Gambling Policy Statement
- Plans and strategies which together comprise the City Development Plan;
- Youth Justice Plan (if such Plan is produced).

In respect of those plans where the City Council has a discretion to produce them should these plans be produced because it is deemed desirable to do so, they will not require adoption by the full Council in the same way as statutory plans.

b) **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, the control of its capital expenditure and the setting of virement limits.

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

## 1.2. FUNCTIONS OF THE FULL COUNCIL

Only the Council will exercise the following functions:

- a) adopting the Constitution and changing those parts of the Constitution which **constitute** the Executive Arrangements;
- 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 set out in 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) appointing the Leader;
- e) agreeing and/or amending the terms of reference of the Leader and also non-executive committees, in the latter case deciding on their composition and making appointments to them (except where appointments are made by the Chief Executive);
- f) adopting a Members Allowances Scheme;
- g) changing the name of the area, conferring the title of honorary alderman or freedom of the borough;
- h) confirming the appointment of the head of paid service;
- i) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- j) all local choice functions set out in this Constitution which the Council decides should be undertaken by itself rather than the executive, save to the extent that such functions are and may be delegated to non-executive committees; and
- k) all other matters which, by law, must be reserved to Council.

### **1.3. COUNCIL MEETINGS**

There are three types of Council meeting:

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

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

## **2. COUNCIL MEETING PROCEDURE RULES**

### **2.1. INTRODUCTION AND INTERPRETATION**

- (1) These Standing Orders regulate meetings of the Council and, in certain situations, the Cabinet, Committees and Sub-Committees. The Standing Orders also refer to some obligations imposed by statute.
- (2) The person presiding at a meeting (Chair) of the Council or of a Committee or Sub-Committee, shall be the final authority as to the interpretation of Standing Orders.
- (3) In the event of any conflict between these standing orders and any more specific requirement of the Executive Procedure Rules and / or the Policy and Scrutiny Procedure Rules, the latter shall prevail.

**The Council's Standing Orders should be read in conjunction with the remote meeting protocol and procedure rules.**

### **STANDING ORDERS FOR COUNCIL MEETINGS**

#### **2.2. ANNUAL MEETING**

- (1) Subject to (2) (f) below, an annual meeting shall be held at 7pm on a day decided by the Council in March, April or May.
- (2) An Annual Meeting of the Council will:
  - (a) elect a person to preside if the Chair is not present
  - (b) elect a Lord Mayor to chair the Council
  - (c) be notified by the Lord Mayor of the appointment of any Deputy Lord Mayor
  - (d) approve as a correct record, for signature by the Chair, the minutes of the last meeting of the Council.
  - (e) receive communications of the Lord Mayor
  - (f) in a year of ordinary elections of Councillors to the Council, to be held on the eighth day after the retirement of the outgoing councillors (or on such other day within the 21 days following the day of retirement as the Council may determine); to:
    - (i) receive a report of the Chief Executive on the return of councillors elected;

- (ii) receive notification of the memberships of political groups;
  - (iii) receive notification of the names of Group Leaders and their Deputies;
  - (iv) elect the Leader of the Council;
  - (v) receive notification from the Leader of:
    1. the appointment of the Cabinet, including the names of Cabinet Members, the wards they represent and their delegated authorities.
    2. the terms of reference of any cabinet committees.
    3. any delegation of executive functions to any area committees or in any joint arrangements and delegations of executive functions to officers.
  - (vi) appoint at least one Overview and Scrutiny Committee and such other committees as the Council considers appropriate;
  - (vii) agree the delegations (terms of reference) to the Leader, the Cabinet as a body, and the Urgency Committee of the Cabinet.
  - (g) determine the allocation of places on committees to political groups in accordance with the proportionality rules.
  - (h) dispose of any other business specified in the summons .
- (3) The Chair may vary the order of business aside from the elections of the Lord Mayor which must always be taken as the first item..
- (4) On the conclusion of the Annual Council Meeting in the year that the City Council is elected (and in other years as necessary), committees will meet to receive nominations of chairmen and memberships and to appoint their chairmen and sub-committees. At such meetings the Chief Executive will ask for all the recommendations before each of the Committees to be taken as adopted. Unless any Member dissents they will be deemed to have been agreed. In the case of dissent, the Chief Executive will seek approval to the appointment of the Chair for the relevant Committee who will then conduct the remainder of the Meeting. All other recommendations will be deemed to have been agreed.

## 2.3. ORDINARY MEETINGS

- (1) Ordinary meetings of the Council shall be held at the Council House, Marylebone Road, NW1 at 7pm in accordance with a programme of meetings approved by the City Council.
- (2) An Ordinary meeting will:
  - a. Appoint a relief chair to preside if the Lord Mayor is not present
  - b. approve as a correct record the minutes of the last meeting of the Council for signature by the Chair
  - c. with the approval of the Chair of the meeting, receive from the Leader of the Council a statement on an urgent matter, provided that the Leader of the Opposition shall have an equivalent opportunity to reply to such statement.
  - d. deal with business expressly required by statute in an officer report, except where it is included in a report of the Cabinet or a Committee (See below).
  - e. receive the Lord Mayor's communications.
  - f. receive declarations of interests from Members and Officers of the Council
  - g. receive deputations or petitions from Members of the Council, including considering petitions as required by the Council's Petition Scheme.
  - h. receive questions from members of the public and consider petitions as required by the Council's Petition Scheme.
  - i. have a 45-minute period for questions in accordance with Standing Orders.
  - j. deal with Councillor Issues in accordance with Standing Orders.
  - k. dispose of business, if any, specified in the summons outstanding from a previous meeting.
  - l. receive and consider the report and any recommendations of the Cabinet (which will incorporate any recommendations of the individual Cabinet Members).
  - m. receive and consider the reports and any recommendations of Committees.



- n. consider issues as notified by the Chief Whips of the political parties in accordance with Standing Orders.
- o. consider motions of which written notice has been given in accordance with Standing Orders.
- p. dispose of any other business specified in the summons.

(3) The Chair may vary the order of business.

## **2.4. EXTRAORDINARY MEETINGS**

- (1) Extraordinary meetings may be called by:
  - (a) a Council Resolution
  - (b) the Lord Mayor at any time and day
  - (c) any five Members if the Lord Mayor has not called an Extraordinary meeting within seven days of receiving a signed requisition presented to him by those Members, in which case the meeting will be held at 7.00pm on a day chosen by the five Members
  - (d) the Monitoring Officer
- (2) An Extraordinary Meeting will be held in March on a date decided by the Council to receive the Leader's Speech on the City Council's priorities and financial aims, to approve the budget and set the Council Tax.
- (3) There shall be no other business at an extraordinary meeting than that on the summons.

## **2.5. ELECTION OF THE LORD MAYOR AND APPOINTMENT OF DEPUTY LORD MAYOR**

- (1) One councillor shall be elected as Lord Mayor at the annual meeting of the Council.
- (2) If more than two candidates are proposed and seconded, the Chair, unless they order that a ballot be held, will put the names in order of nomination. Each member can only vote for one candidate. The Chair will determine the result of the vote by judging the number of hands raised for a particular candidate. If there is not a majority of those present and voting in favour of one person, the name of the person having the least number of votes shall be struck out. The Chair shall then put the names of the remaining candidates from time to time or

require ballots to be held until the number is reduced to two. They shall then put the names of the two candidates to the meeting and the candidate who receives most votes shall be declared elected.

- (3) The Lord Mayor shall, unless they resign or becomes disqualified, hold office (whether or not they continue until that time to be a councillor) until a newly elected Lord Mayor becomes entitled to act as Lord Mayor.
- (4) The Lord Mayor may appoint a member of the Council to be Deputy Lord Mayor. The person appointed shall, unless they resign or becomes disqualified, hold office (whether or not they continue until that time to be a councillor) until a newly elected Lord Mayor becomes entitled to act as Lord Mayor.
- (5) The appointment of a Deputy Lord Mayor shall be signified to the Council in writing and be recorded in the minutes of the Council.
- (6) The Deputy Lord Mayor may, if for any reason the Lord Mayor is unable to act or the office of Lord Mayor is vacant, discharge all functions which the Lord Mayor as such might discharge, except that they shall not take the Chair at a meeting of the Council unless specifically appointed by the meeting to do so.

## **2.6. ELECTION OF THE LEADER**

- (1) One Councillor shall be elected as Leader of the Council at the meeting of the Council following the office becoming vacant and at the annual meeting following Full Council elections.
- (2) The Chief Whip of the Majority Party (or nominee) will move to nominate the Leader of the Majority Party which will need to be seconded. If two or more candidates are proposed and seconded, the Chair, unless they order that a ballot be held, will put the names in order of nomination. Each member can only vote for one candidate. The Chair will determine the result of the vote by judging the number of hands raised for a particular candidate. If there is not a majority of those present and voting in favour of one person, the name of the person having the least number of votes shall be struck out. The Chair shall then put the names of the remaining candidates from time to time of require ballots to be held until the number is reduced to two. They shall then put the names of the two candidates to the meeting and the candidate who receives most votes shall be declared elected.

## **2.7. DEPUTATIONS AT COUNCIL MEETINGS**

- (1) The Council may agree to receive a deputation at any ordinary meeting if, in the opinion of the Chair, it relates to an item of business on the agenda for that meeting and is urgent. The Chair's decision is final and not open to challenge at the meeting.

- (2) A motion that a deputation be received shall be formally moved, seconded, and voted upon without debate. The deputation will be admitted once the motion is carried.
- (3) A deputation shall not be more than five people, of whom only one may speak for up to five minutes.
- (4) No discussion shall take place on any matter raised by a deputation, but any member of the Council may immediately move a motion, without notice, that the subject matter of the deputation be referred to the Cabinet, relevant Cabinet Member, or the appropriate Committee or Sub-Committee. Such a motion shall be formally moved and seconded and then be immediately voted upon without debate. This Standing Order shall not preclude consideration by the Council of any matter contained elsewhere on the agenda.

## **2.8. RESIDENT PARTICIPATION: PETITIONS AND QUESTIONS**

- (1) At each Ordinary meeting following items covering the appointment of Relief Chair, minutes, Lord Mayor's Communications, Councillor presented petition or deputations, any declaration of interests, or statements on urgent matters, there will be 30 minutes set aside for resident participation.
- (2) Submissions, which can be questions or petitions, must be made in writing and handled, in line with the published Public Participation Protocol.
- (3) Anyone who lives, works or studies in Westminster is able to submit a question or a petition which has over 100 signatures via an online form on the Council website up to a week before the meeting.

Between five and seven submissions will be accepted to be heard at the Ordinary meeting, time permitting, prioritising those which can evidence support on the issue e.g. via a petition, and further prioritising speakers who have not spoken before or issues which have not been raised in the previous twelve months.

Beyond this, questions and petitions shall be chosen at random in the event of the meeting being oversubscribed. The Lord Mayor shall, on the advice of the Monitoring Officer and Chief Executive, determine which questions/petitions are eligible and selected for discussion at each meeting.

- (4) Residents must submit their issue, or ensure that their petition closes, in time for it to be reviewed by 12pm on the seventh day before the meeting.

- (5) Residents must be able to participate in the meeting to have their question or petition heard. This participation would ideally be in person but in exception can be remotely via the use of digital technology. All public speakers must adhere to the rules around the Conduct of Debate contained in Standing Order 2.14.
- (6) Questions asked, or petitions presented, will receive a response from the appropriate Cabinet Member or Committee Chair.

## **2.9. MEMBER QUESTIONS**

### **(a) Oral Questions**

- (1) At each Ordinary Council meeting following the full Council elections all Members of the Council (except the Lord Mayor, Cabinet Members and the Leader of the Opposition) shall be asked to indicate if they wish to ask a question. The Lord Mayor (Chair) shall then call Members in turn and in doing so may have regard to the proportionality of the political groups on the Council.
- (2) The Leader of the Opposition is entitled to ask three questions during a question time.
- (3) A question shall be directed to a Cabinet Member or a Committee Chair on any matter within their terms of reference. The questioner must identify the Member to whom the question is addressed before asking it.
- (4) Only one single question may be asked at a time and shall be put briefly.
- (5) The Chair may disallow any question that in their opinion is not relevant to the functions or powers of the Council, or is wholly or in part frivolous or derogatory to the dignity of the Council, or is not put with reasonable brevity or comprises more than one part.
- (6) Where any question has, in the Chair's opinion been incorrectly addressed to a particular Cabinet Member or Committee Chair, they may redirect the question to the appropriate Member.
- (7) The reply shall be given orally by the Cabinet Member or the Committee Chair (or their nominee). If a question affects more than one Member a combined reply, by agreement between the relevant Members, may be given by one of them or a nominee.
- (8) Question time shall be 45 minutes and then the Chair will end question time and any member speaking at the time will sit down. The Chair may allow an extension of time to permit a reply to be made to the last question called or put.

- (9) After a reply a maximum of one related single point supplementary question may be asked. The Member who asked the original question has the right to ask the supplementary question in preference to any other Member.
- (10) Questions may not be asked at Annual or Extraordinary meetings of the Council.
- (11) Questions and Replies shall be included in the recording of the meeting and placed on the Council's website no later than 28 days following the date of the Council meeting.

(b) Urgent Questions

With the permission of the Chair, any member may ask a Cabinet Member or a Committee Chair a question relating to urgent business which may be answered by the respondent either orally or in writing. A copy of any such questions shall be delivered to the Chief Executive not later than four hours before the start of the meeting.

(c) Written Questions

- (1) Any member may between any two Ordinary meetings of the Council submit not more than three questions for written answer by a Cabinet Member or Committee Chair. Such question(s) shall be submitted to the Chief Executive who shall circulate fortnightly to all members of the Council a list of questions submitted under this paragraph, together with the replies. Every question shall, subject to (2) below, receive a reply within three weeks of the date of its receipt by the Chief Executive and such replies shall be published on the Council's website.
- (2) Cabinet Member or the Committee Chair (or their nominee) may decline to answer a question if assembling the necessary information would, in their opinion, involve excessive cost.
- (3) Urgent and Written Questions may be edited by the Chief Executive if necessary, either to put them in proper form and/or to secure reasonable brevity. A question which in the opinion of the Chief Executive comprises of more than one part shall be referred back to the Member who submitted it for direction as to which part he requires to be answered. The Chief Executive may disallow or edit any such question which in his opinion is not relevant to the functions or powers of the Council, or is wholly or in part frivolous or derogatory to the dignity of the Council, or where any question has been incorrectly addressed to a particular member, redirect the question to the appropriate member.

**2.10. COUNCILLOR ISSUES**

- (1) Three weeks prior to each Ordinary Council Group Whips will nominate one Councillor (except the Lord Mayor and Cabinet Members) to propose an issue for inclusion on the Council agenda, that relates to a function of the City Council. The Group which has the nomination rights for this item at each meeting shall be decided on a proportionate basis.
- (2) The Councillor selected in the draw will have to give notice to the Chief Executive of their chosen item by 12 noon two weeks prior to the Council meeting for inclusion on the agenda and the Chief Executive shall, on notice to the Councillor concerned, disallow any issue that is not relevant to the function of the City Council.
- (3) At the meeting the selected Councillor will speak first and then the Cabinet Member (or Committee Chair, if appropriate) will reply.

#### **2.11. AGENDA ITEMS FOR DEBATE AND DECISION**

- (1) All reports of the Cabinet, Committees or from Officers shall, where practicable, be sent to each member with the notice convening the meeting of the Council at which they will be considered.
- (2) The Cabinet, Cabinet Committees, individual Cabinet Members and relevant Committees shall, if making a recommendation for a decision, submit a written report including such a recommendation to the Council.
- (3) Items for debate. Groups will be allowed to select any policy or operational matter relevant to the Council or City. In cases of doubt about relevance of subjects the Chief Executive, as Proper Officer, is empowered to determine the validity of a subject. The Group proposing the subject is required to give a single line title as well as a short paragraph to explain the nature of the debate and assist debate participants to prepare appropriately.
- (4) A nominated representative of each of the two largest political groups on the Council shall, no later than 10am on the sixth day before the Council Meeting (usually the preceding Thursday) notify the Chief Executive of the Group's choice and preferred order of items for debate as per section (3) above and from, including from amongst the Cabinet and Committee Reports, and any Notices of Motion set out under Standing Orders.
- (5) The Chief Executive shall draw up a list identifying the items selected by the groups and the order selected.
- (6) A Cabinet Member or a Committee Chair (or nominee) may correct errors in any paragraph in any part of a report or recommendation, or with the consent of the Council withdraw any report or

recommendation.

- (7) Time for debates shall be allocated proportionally based on the Groups elected to the Council. Only formally constituted Groups shall be entitled to time in the debate section of the meeting. In the event that there is less than 1 hour 25 minutes available prior to 10pm the Chair will reduce the debating time to a proportionate amount. In the event that the time allocated for the Public Participation Item (section 2.8) is not used this will be allocated back into debate time.
- (8) When reached in accordance with the preferred priority order of debate, each paragraph with a recommendation will be deemed to have been moved and seconded. The Cabinet Member or the Committee Chair (or nominee) may speak first and may nominate another Member to exercise his right of reply to the debate.
- (9) Any item containing a recommendation may, subject to Standing Order 2.12 (1), be the subject of comment or a motion to amend the recommendation or of a motion that the recommendation be referred back to the Cabinet or a Committee. No other motion affecting such an item shall be moved.
- (10) A member moving that a recommendation be referred back to the Cabinet or a Committee or moving an amendment to a recommendation shall not have the right of reply. Such right shall be available only to the member moving the reception of the report or their nominee and upon the exercise of that right the debate on the reference back or the amendment then under discussion shall be closed.
- (11) Any member may comment in respect of any issue selected for debate that does not include a recommendation, but neither a motion nor an amendment to it shall be permitted.
- (12) Subject to (13) (14) and (15) below, with five minutes remaining of each Group's time, the Chair shall call the relevant Cabinet Member or Committee Chair (or nominee) to respond to the debate on the paragraph then under debate. Debate will then continue on other Group(s) item(s). The same procedure shall be adopted with five minutes remaining of each Groups' business. The Chair will terminate the meeting under Standing Order 20 on the conclusion of all Group business.
- (13) If the Majority Group and the Opposition Group(s) both select the same item for debate and the relevant Cabinet Member or Committee Chair has been called to respond on that item during the time allocated to the Majority Group, then the debate on that item shall thereafter be regarded as concluded and the item will not be called again during the time allocated to the Opposition Group(s). In the event that the last item being debated in the time allocated to the Majority Group is also the

first item selected by the Opposition Group(s) then the debate will be allowed to continue into the time allocated to the Opposition Group(s) and the relevant Cabinet Member or Committee Chair will be called to respond at the conclusion of the debate or that item or after 30 minutes of the Opposition Group(s) time as appropriate, rather than after 45 minutes of Majority Group time.

- (14) If a Cabinet Member or a Committee Chair or their nominee is making the first speech on an item selected for debate when 45 minutes has elapsed then the Chair may treat that speech as the last speech.
- (15) Any matter formally referred to the Council for debate by a Policy and Scrutiny Committee shall have priority for debate and the time spent shall be deducted in the relevant proportions from the time allocated to Majority/Opposition Group(s) business.
- (16) On the conclusion of other items on the agenda (if any) the Chair shall then call, in the order appearing on the agenda the remaining paragraphs not yet debated in any report which include recommendations and when called the recommendations in any paragraph shall be deemed to have been moved and seconded.
- (17) The appropriate Executive Director is required to have regard to the views of Members expressed during debate when preparing reports for consideration by the Cabinet/Cabinet Members.

## **2.12. PROCEDURAL MOTIONS**

- (1) The following motions may be moved without notice; they shall only be formally moved and formally seconded and shall not be the subject of debate (subject to the provisos set out below under \*):
  - (a) relating to the accuracy of the minutes;
  - (b) that the report of the Cabinet or a Committee be received;
  - (c) to appoint a Committee or members thereof occasioned by an item mentioned in the summons to the meeting;
  - (d) to suspend Standing Orders in accordance with Standing Orders;
  - (e) to exclude the press and public;
  - (f) to give the consent or leave of the Council where this is required by these Standing Orders;
  - (g) that a Member be not further heard;
  - (h) \*that any item of business specified in the summons has



precedence

- (i) \*that the Council adjourns for a specified period;
- (j) \*that the Council proceed to the next business;
- (k) \*that the question be now put; the appropriate Cabinet Member or Committee Chair (or their nominee) or, in respect of matters not specifically within the terms of reference of any other member, the Leader of the Council or his nominee shall have a right to reply;

\*The motions in (h) - (k) may only be moved by a member who has not spoken on the motion or amendment then before the Council. Whilst any of the motions referred to in (h) - (k) is under consideration no other motion shall be moved. A motion under

- (h) shall not be moved within a period of 30 minutes of the disposal of a previous motion under that Standing Order and the same limitation shall apply to motions moved under (i). Except in relation to motions under (k) the appropriate Cabinet Member or Committee Chair or their nominee, as in respect of matters not specifically within the terms of reference of any other Committee, the Leader of the Council or his nominee shall have a right to reply.
  - (l) that consideration of the question be postponed for a specified period or indefinitely;
  - (m) that the sitting of the Council be extended beyond the period specified in Standing Orders either to a fixed time or until the completion of all or certain business on the agenda;
  - (n) that leave be given to withdraw in whole or in part the report of proceedings of the Cabinet or a Committee;
- (2) The following motions may be moved without notice; they shall only be formally moved and formally seconded and shall not be the subject of debate. Whilst any of these motions is under consideration by the Council, no other motion shall be moved.
- (a) to appoint a Chair of the meeting where necessary;
  - (b) that a deputation be received;
  - (c) that a matter raised by a deputation received under Standing Orders be referred to the appropriate Committee, Cabinet or Cabinet Member;
  - (d) to extend the time limit for speeches.

- (e) any other procedural motion to secure the efficient conduct of business.
- (3)
- (a) When a motion has been moved and seconded that any item of business specified in the summons has precedence the Chair shall call upon the appropriate Cabinet Member or Committee Chair or their nominee or the mover of a motion under Standing Orders when such a motion is under consideration to reply to the motion that other business should have precedence and they shall then put the motion that other business should have precedence to the vote. If it is carried, the item of business specified shall be called and debated before consideration of any motion or amendment before the Council is resumed. If the motion is not carried, then debate on the motion or amendment before the Council shall continue or, if there is no motion or amendment before the Council, the next item of business on the agenda shall be called.
  - (b) When there is a motion or an amendment before the Council and it is moved and seconded that the question be now put the Chair shall immediately put the motion that the question be now put to the vote. If it is carried, the mover of the original motion/Cabinet Member or appropriate Committee Chair or their nominee will then be allowed to exercise their right of reply under Standing Orders for up to 5 minutes. The motion or amendment before the Council shall then be put to the vote. If the motion that the question be now put is not carried, the debate on the motion or amendment before the Council shall continue.
  - (c) When there is a motion or an amendment before the Council and it is moved and seconded that consideration of the question be postponed for a specified period or indefinitely the Chair shall call upon the appropriate Cabinet Member or Committee Chair or their nominee or the mover of a motion under Standing Orders when such a motion is under consideration to reply to the postponement motion and he shall then put the motion proposing postponement to the vote. If the motion for a postponement to another day or an indefinite postponement is carried, the next item of business shall be called. If a motion for postponement for a specified period at the same meeting is carried, then other business shall be dealt with until the period of postponement has expired and consideration of any business then before the Council has been concluded. If the postponement motion is not carried, then debate on the motion or amendment before the Council shall continue. Any motion agreed by the Council for postponement for a specified period at the same meeting shall not affect the termination provisions set out in Standing Orders
  - (d) When any motion relating to the consideration of a report to

Council or any motion under Standing Orders is under debate, no other motion shall be moved except an amendment of which notice has been given under Standing Orders or any of the motions referred to in paragraph (1) and (2) above.

### **2.13. NOTICE OF MOTIONS**

With the exception of those motions listed in Standing Order 2.12:

- (1) No motion shall be moved unless it is submitted in writing (signed by the proposer) to the Chief Executive no later than 2 pm. on the fourteenth day before the meeting at which the motion is to be moved, and is included on the summons for that meeting. A motion shall be duly seconded at the meeting. This Paragraph does not apply to motions moved under Standing Orders to amend or refer back a recommendation of a Committee (see 2.13(5) (a, b and c) below).
- (2) The Chief Executive may, in consultation with the proposer of any motion of which notice has been given edit the motion, either to put it into proper form and/or to secure brevity. The Chief Executive may disallow any motion that they consider to be frivolous or derogatory to the dignity of the Council.
- (3) No proposal either to amend a notice of motion under paragraph (2) of this Standing Order (including any proposal by the member who gave such notice) or to amend or refer back any recommendation contained in a report of a Committee in accordance with Standing Orders (other than to correct errors) shall be moved at a meeting of the Council unless written notice thereof in the name of the proposer is delivered to the Chief Executive not less than 24 hours before start of the meeting, whereupon the Chief Executive shall inform the Cabinet Member or appropriate Committee Chair or the mover of the motion and shall circulate a copy of the amendment to all members of the Council.
- (5) Any amendment must be relevant to the motion and shall be one of the following:
  - (a) to refer the subject for debate to the Cabinet, Cabinet Member or a Committee for consideration or reconsideration; or
  - (b) to leave out words; or
  - (c) to leave out words and/or insert or add other words; but such omission, insertion or addition of words shall not, in the opinion of the Chief Executive directly negate the original motion.
- (6) No motion or amendment shall be moved which has the same effect as any motion which has been negated within the preceding six months

but, this shall not apply to a motion to adopt a recommendation of the Cabinet, Cabinet Member or a Committee. Neither shall this paragraph apply to any Procedural Motion under Standing Orders but the Chair may disallow such a motion if it is in their opinion to the same or similar effect as a previous motion already disposed of on the same item.

- (7) Except when the Council is considering annual estimates, no motion or amendment which would have the effect of incurring expenditure (other than minor incidental expenditure) shall be moved at a meeting of the Council except in the form of an instruction to Cabinet, a Cabinet Member or a Committee for consideration and report.
- (8) A Member may at any time withdraw a motion or amendment or any part thereof of which he has given notice. If a motion is withdrawn any amendments to that motion automatically fall. If a motion is partially withdrawn, any amendments to those parts of the motion which have been withdrawn will automatically fall, save where an amendment consists of the addition of complete sentences which are free standing notwithstanding the withdrawal of parts of the motion and, therefore, in the view of the Chief Executive, should be allowed to stand unless withdrawn by the mover of the amendment.
- (9) When a motion referring a matter to the Cabinet or a Committee is carried, the member who moved the motion shall if he is not a member of the Cabinet or the appropriate Committee be invited to attend the first meeting of the Cabinet or Committee at which the matter is to be considered and shall be entitled to be heard thereon, provided that if the Cabinet or a Committee at the first meeting at which the matter is considered calls for a further report the member concerned shall have the same rights in respect of any subsequent meeting at which such report is to be considered. Where the Motion is referred to a Cabinet Member, the Member shall be entitled to make representations orally to the Cabinet Member on question before a decision is made on the matter.
- (10) Notices of Motion may be selected for debate within any Group's debate time as provided for under Standing Orders.

## **2.14. CONDUCT OF DEBATE**

- (1) Members shall stand in their places to indicate their wish to speak and, if two or more members rise, the Chair may select one of them to speak in which case all other members shall be seated. Priority in calling members to speak on any item of business may be given by the Chair to those members who, either directly or through their Party Whips, have notified the Chief Executive of their wish to do so by not later than noon on the second day prior to the meeting (i.e. the Monday preceding a meeting held on a Wednesday). Any such prior notification shall be notified by the Chief Executive who shall circulate at the meeting a list of those nominated to speak, but the list shall not confer any right to speak at the meeting and the Chair may call others to

speaking, and may take into account the proportionality of groups in calling speakers. When any member has been called to speak by the Chair, other members shall remain seated unless rising on a point of order or to make a personal explanation.

- (2) Whenever the Chair rises from their Chair, every other member shall sit and be silent and he shall be heard without interruption.
- (3) All speeches shall be no longer than five minutes unless the Council specifically consents to an extension of time, or the Chair extends the time because of interruption or intervention.
- (4) A member shall speak to the matter under discussion, or to a personal explanation or to a point of order. If a member does not comply with this paragraph or inappropriately engages in imputation of improper motives or other breaches of order the Chair shall call that member to order and may tell them to stop speaking.
- (5) A member may speak only:-
  - (a) on motions or amendments, or
  - (b) to ask or answer questions under Standing Order 2.9; or
  - (c) to raise a point of order; or
  - (d) to make a personal explanation, or
  - (e) to make an intervention for no more than one minute, with the consent of the person then speaking in the debate whose allocated time to speak will be unaffected by the length of the intervention and who may only give way to a maximum of two interventions in any one speech.

This shall not apply to the Chair, nor where in other circumstances they give permission to a member to speak.

- (6) No one may speak more than once on any motion (including a recommendation of the Cabinet or a Committee) except:
  - (a) the mover of a motion who may reply both to the debate on the unamended motion and to the debate on any proposal to amend the motion;
  - (b) the member who formally seconds a motion or a proposal to amend the motion provided that they reserve their right to speak at the time of seconding. This right does not exist in respect of procedural motions under Standing Orders;
  - (c) the member who successfully moves an amendment to a motion of which written notice has been given in accordance with Standing Orders who shall have the right of reply to the debate on the substantive motion following their amendment, and to any proposal to further amend (in place of the Mover of

- the original Motion);
- (d) a member may speak on a proposal to amend a motion on which they have already spoken;
  - (e) a member who has spoken in support of an unsuccessful proposal to amend a motion may also speak on the unamended motion;
  - (f) a member may, in accordance with Standing Order 2.15, raise a point of order or make a personal explanation;
  - (g) to move any of the motions in 2.12 (1) (2) other than 2.12 (1) (h)-(k).
- (7) In the exercise of a right of reply, a member shall confine their speech to answering points made by previous speakers, and the exercise of that right shall close the debate on the particular motion or amendment then under discussion.
- (8) The right to make a reserved speech under (6)(b) of this Standing Order is lost if a closure motion or an adjournment motion is carried; but the right of reply of the mover of the original motion in either of those events is preserved.
- (9) Only one amendment may be moved and discussed at any time, and no further amendment shall be moved until the amendment under discussion has been disposed of, provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if they judge it to be in the best interests of facilitating the proper conduct of the Council's business, and where this occurs the amendments shall be voted on in the order in which they were moved. Similarly, the Chair may, on the same basis, permit a motion and proposed amendment(s) to be discussed (but not voted on) together. Where this occurs amendment(s) shall be voted on first in the order in which they were moved before the original or amended substantive motion is put to the vote.
- (10) When an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.

## **2.15. POINTS OF ORDER AND PERSONAL EXPLANATION**

- (1) A member may at any time raise a point of order but when so doing they shall specify the particular Standing Order or statutory provision which they allege has been breached or on which they otherwise rely, specifying in the case of a Standing Order the number and the relevant paragraph and the way in which they consider it has been breached. Any member speaking at the time a point of order is raised, shall resume their seat.

- (2) Subject to (3) below a member making a personal explanation shall be entitled to be heard forthwith. Any member speaking at the time a personal explanation is to be made shall immediately resume their seat.

A personal explanation may only be made by a member who -

- (a) has spoken earlier in the debate then in progress who wishes to correct a misstatement they have made; or
  - (b) wishes to correct a statement made about them by the person then speaking; or
  - (c) wishes to correct a misquotation by the person then speaking of facts originally put by them earlier in the debate.
- (3) The ruling of the Chair on a point of order or on the right to make a personal explanation shall be final, and shall not be open to debate.

## **2.16. MODE OF VOTING**

- (1) When the Chair puts the question Members will vote by raising one hand for or against as appropriate. The Chair will judge the result of the vote on the number of hands raised respectively for and against and shall declare the result of the vote. That result shall be final unless the procedures set out in (3) or (4) below are invoked.
- (2) Where the Chair considers that there should be a formal count of the vote, the Chief Executive shall conduct the count based on a show of hands. The Chair shall then declare the result of the vote.
- (3) The Chair may, if they consider it necessary for any reason, request the Chief Executive to call the name of each Member of the Council who shall then signify whether they are voting for or against the motion or is not voting. The Chair shall then, following a count of the votes, declare the result. If following calling of the Members name the Member does not vote they shall be recorded, if present, as abstaining or absent if absent. If the Member arrives after the vote has commenced they will not be entitled to vote. Prior to the vote being taken the Lord Mayor shall advise that Members may only vote from their allocated seats.
- (4) In the event that immediately after a vote at least 10 Members stand in their places and demand a division, the Chair shall request the Chief Executive to call the name of each Member of the Council who shall then conduct the vote in accordance with (3) above save that a Division Bell, if available, shall be rung for 30 seconds prior to the commencement of the vote or in the absence of a Division Bell the Lord Mayor shall announce that a vote is to be taken and wait for 30 seconds before commencement of the vote to allow Members to take their allocated seat. No Member shall be allowed to enter the meeting

after the end of the 30 second period until after the vote has been concluded. The names of the Members voting for, against or abstaining shall be recorded in the minutes.

- (5) Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.
- (6) In Standing Order 2.16(5) —
  - (a) “budget decision meeting” means a meeting of the Council at which it:
    - (i) makes a calculation (whether originally or by way of substitute) in accordance with any of [sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ](#) of the Local Government Finance Act 1992; or
    - (ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;
  - (e) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.;
- (7) Immediately after a vote is taken any Member may require to have recorded in the minutes whether he cast his vote for or against the question, or abstained.
- (8) In the event of an equality of votes the Chair shall have a second or casting vote.

## **2.17. DISCUSSION OF MATTERS AFFECTING STAFF**

Before discussing any matter affecting individual Members of Staff, the Council or Committee shall consider whether to exclude the press, relevant officers and the public, and if so for what reason.

## **2.18. DISORDER**

- (1) If at a meeting of the Council any member persistently disregards the ruling of the Chair or by behaving improperly or offensively (whether to the Chair or to any other member) or by wilfully or recklessly obstructing the business of the Council or by acting in a frivolous manner which is, in the opinion of the Chair, contrary to the dignity of



the Council the Chair may direct that they be not heard further.

- (2) If the member continues his misconduct, the Chair may direct that Member to leave either for a fixed period or until the end of the meeting and if they refuse to leave the meeting, the Chair shall direct that all necessary steps be taken to secure their removal, and shall adjourn the meeting of the Council until such removal is effected.
- (3) If the Chair is satisfied that it is necessary for the purpose of restoring order they may adjourn the meeting of the Council or Committee. If the Chair specifies no period for the adjournment the meeting shall be deemed to have been adjourned for 5 minutes.
- (4) Filming including the taking of photographs will generally be allowed of the Part 1 (public) part of the proceedings but the Chair may, in the interests of the good conduct of the meeting, refuse permission. Such decisions shall not be open to challenge. Filming on behalf of bona fide media organisations shall also generally be allowed with the permission of the Chair on the recommendation of the Chief Executive or Monitoring Officer.
- (5) The press and public shall be admitted unless, in accordance with Standing Order 2.27. The Chair is empowered if it is necessary to prevent disorderly conduct or other misbehaviour by the public or any member of the public:
  - (a) to refuse admission to any person to any meeting of the Council;
  - (b) to take all steps necessary to secure the removal of any person previously admitted:
  - (c) to order the clearance of the public gallery and may adjourn the meeting whilst such removal or clearance takes place.
- (6) Without prejudice to the powers conferred on the Chair by paragraph (5) of this Standing Order, the Chief Executive shall be authorised to appoint suitable persons to act as stewards at meetings of the Council. Any such steward, who shall carry proof of appointment and be clearly identifiable as such, shall be empowered to take all steps necessary to maintain order in the public gallery and in the event of disorderly conduct or other misbehaviour by any member of the public present shall be empowered without prior instruction from the Chair to order that person to leave and to take all steps necessary to secure the removal of that person from the meeting.
- (7) If the powers in (5) and (6) are exercised, re-admission of the public or any member thereof shall be at the discretion of the Chair.

**2.19. REPORTING ON PUBLIC MEETINGS**

- (a) Members of the public, including representatives of the media, shall be permitted to report on the Part 1 (public) part of the Council's formal meetings. Reporting may include filming, photographing or making an audio recording of proceedings at a meeting; using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present. The Chair may only refuse permission if there is just reason for doing so, in exceptional circumstances, in the interests of good conduct and in accordance with Standing Orders 2.18. Such decisions shall not be open to challenge.

**2.20. TERMINATION OF MEETING**

- (1) When a meeting has sat for 3 hours (including any adjournments) or if earlier at the conclusion of the time allocated for debates in accordance with Standing Order 2.11 then unless it has resolved to continue the sitting, the Chair shall draw the Council's attention to the time, whereupon:
  - (a) all Standing Orders except SO 2.18 (Disorder) and this one shall be deemed to have been suspended;
  - (b) all outstanding reports shall be deemed to be received;
  - (c) any motion then under debate (including any amendment to such motion that has already been moved) shall be voted upon without further debate in the manner prescribed in (2) below;
  - (d) notices of motion submitted under Standing Order 2.13 which have been moved and seconded, including any amendments that have already been moved shall be voted upon without debate in the manner prescribed in (2) below.
- (2) The Chair shall then call in agenda order the item numbers of each outstanding matter in any reports that include recommendations. After each item has been called members shall indicate their vote on a show of hands (2.16), but no debate or division shall be permitted. Immediately after a vote is taken any member may require to have recorded in the minutes his vote as for, against or abstain.

**2.21. ANNUAL ESTIMATES AND THE MAKING OF THE COUNCIL TAX**

- (1) The Chief Executive and the City Treasurer shall prepare draft Annual Estimates in consultation with the respective Chief Officers in a form and to a timetable approved by the Leader. The draft estimates and the Chief Officers' reports thereon shall be submitted to a meeting of

the Cabinet. The estimates of Cabinet Members and Committees shall be based upon limits of expenditure to be set by the Cabinet after considering the Chief Executive and the City Treasurer's forecasts of Cabinet Members and Committees' requirements.

- (2) The Cabinet shall submit to an Extraordinary Meeting of the Council in March of each year a report including recommendations in respect of the reception of a Speech by the Leader of the Council on Council priorities and financial aims; estimates of income and expenditure. Other business shall be included on the agenda if in the opinion of the Chief Executive a decision of the Council is required before the next ordinary meeting of the Council. A report shall also be submitted by the Cabinet to Council in March each year setting out for consideration by the Council the Cabinet's recommendation on the amount of the Council Tax charge.
- (3) At the March meeting of the Council at which the report and recommendations of the Cabinet as to the items in (2) above are being considered, Standing Order 2.11 (consideration of reports to Council), Standing Order 2.12(1)(m) (motion to extend sitting), Standing Order 2.14 (conduct of debate), and Standing Order 2.20 (termination of meeting) shall be varied so that:
  - (a) the debate on recommendations in respect of the Leader's Speech, and the Budget Proposals be terminated at 9.45pm and the recommendations then immediately put to the vote.
  - (b) the Leader of the Council (or his nominee) in introducing the report of the Cabinet on the Budget Proposals to make a Leader's Speech for up to 20 minutes and then the Leader of the Opposition (or his nominee), in responding to the Leader of the Council's Speech to speak for up to 20 minutes; the Cabinet Member for Finance will then speak for up to 10 minutes with a Member nominated by the Opposition Party responding for up to 10 minutes.
  - (c) there be one general debate on the Leader's Speech, and the Budget;
  - (d) at 9.35pm the Leader of the Council to reply to the debate for up to 10 minutes.

## **2.22. CONDUCT OF BUSINESS**

Procedure in relation to Council objections to the Cabinet's proposals in respect of the Budget and Policy Framework (see also Budget and Policy Framework Rules).

- (1) Where the Cabinet has submitted a draft plan or strategy as defined by the Local Authorities (Standing Orders) (England) Regulations 2001 to

the Council for its consideration and, following consideration of that draft or strategy, the Council has any objections to it, the Council must take the action set out in (2) below.

- (2) Before the Council –
  - (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,

it must inform the Leader of the Council of any objections which it has to the draft plan or strategy and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- (3) Where the Council gives instructions in accordance with paragraph (2), it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader may –
  - (a) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”), with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.
- (4) When the period specified by the Council, referred to in paragraph (3), has expired, the Council must, when –
  - (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) or which any part is required to be submitted; or
  - (c) adopting (with or without modification) the plan or strategy, take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the

Cabinet's reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

- (5) Subject to paragraph (9), where, before 8<sup>th</sup> February in any financial year, the Cabinet submits to Council for its consideration in relation to the following financial year –
- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) estimates of other amounts to be used for the purposes of such a calculation;
  - (c) estimates of such a calculation; or
  - (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph (6).

- (6) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (5)(a), or issues a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, it must inform the Leader of the Council of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- (7) Where the Council gives instructions in accordance with paragraph (6), it must specify a period of at least five working days beginning on the day after the date on which the Leader of the Council receives the instructions on behalf of the Cabinet within which the Leader may –
- (a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - (b) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (8) When the period specified by the Council, referred to in paragraph (7), has expired, the Council must, when making calculations (whether

originally or by way of substitute) in accordance with the sections referred to in paragraph (5)(a), or issuing a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992, take into account

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the Cabinet's reasons for those amendments;
- (c) any disagreement that the Cabinet has with any of the Council's objections; and
- (d) the Cabinet's reasons for that disagreement,

which the Leader of the Council submitted to the Council or informed the Council of, within the period specified.

- (9) Paragraph (5) to (8) shall not apply in relation to –
  - (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## **2.23. QUORUM FOR MEETINGS OF THE COUNCIL**

- (1) No business shall be transacted at a meeting of the Council unless one-quarter (14) of the members of the Council are present.
- (2) If by fifteen minutes after the time at which a meeting is convened a quorum is not present, the meeting shall not take place and the business shall, unless otherwise disposed of, be included on the agenda for the next ordinary meeting of the Council.
- (3) If the presence of a quorum is questioned during a meeting, the division bell shall be rung for thirty seconds and the Chair shall then ascertain whether a quorum is present. If the Chair declares that there isn't a quorum then the meeting will adjourn immediately to a date and time fixed by the Chair or otherwise to the next ordinary meeting.

## **2.24. MINUTES OF COUNCIL MEETINGS**

- (1) At each meeting of the Council the minutes of the previous meeting shall be taken as read if a copy thereof has been sent to each member at least 48 hours prior to the meeting at which they are submitted for approval and signature. Where the next meeting of the Council is an

extraordinary meeting the minutes of a meeting may be approved at the next ordinary meeting of the Council.

- (2) Any objection to the minutes shall be by way of motion that may be moved without notice and need not be seconded. Any such motion must be proposed before the minutes are signed.

## **2.25. NOTICE OF MEETINGS**

- (1) At least five clear days before a meeting of the Council:-
  - (a) notice of the time and place of the meeting shall be published at the Council's offices, and where the meeting is called by members of the Council the notice shall be signed by those members and shall specify the business proposed to be transacted; and
  - (b) a summons to attend the meeting, specifying the business and accompanied by such reports as are available, and signed by the Chief Executive shall be left at, or sent by post to, the usual place of residence of every member of the Council (or by post to such other address as the member may request). Any summons addressed to them and left at or sent by post to that address shall be deemed sufficient service of the summons.
  - (c) Want of service of a summons on a member of the Council shall not affect the validity of a meeting of the Council.

## **2.26. CHAIR OF MEETINGS**

- (1) At a Council Meeting the Lord Mayor shall preside if present.
- (2) If the Lord Mayor is absent another member of the Council chosen by the members of the Council present shall preside. The CE shall preside over such elections.
- (3) In the case of an equality of votes the Chair at the meeting shall have a second or casting vote.

## **2.27. ADMISSION OF PUBLIC**

All meetings of the Council shall be open to the public, subject (a) to the power to exclude the public to avoid disclosure of confidential or exempt information under the Local Government Act 1972 or the Freedom of Information Act 2000; and (b) the power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at the meeting.

## **2.28. ATTENDANCE BOOK**

Every member of the Council attending a meeting of the Full Council shall sign their name in the attendance book.

## **2.29. ROLE AND FUNCTION OF THE LORD MAYOR**

The Lord Mayor serves for one year and is elected generally every May by the City Council from among its members. The Lord Mayor is the civic and ceremonial head of the Council, and is the First Citizen of Westminster.

They are also the Deputy High Steward of Westminster by invitation of the High Steward, which accords them special status at Westminster Abbey.

The Lord Mayor's role is summarised as follows:

As First Citizen, to represent and promote the interests and welfare of the City of Westminster, its residents and visitors, council services and activities.

The Lord Mayor's principal duties are:

- a. to attend and chair Council Meetings;
- b. to represent the City and the Council on all State and Public occasions;
- c. to act as the Council's 'goodwill and ceremonial' corporate host in entertaining Royalty, Heads of State and other overseas visitors, members of both Houses of Parliament, members of the Diplomatic Corps and representatives of voluntary and other organisations and bodies with whom the Council works closely, as well as Mayors of other Cities;
- d. to attend functions given by diplomatic missions, national or regional organisations based in Westminster and Westminster's own local and voluntary bodies;
- e. to visit voluntary organisations and other local bodies within the City as the Council's Civic head and generally to liaise with all sections of the community in Westminster on behalf of the Council;
- f. to be the Returning Officer for the two Parliamentary Constituencies which include Queen's Park and Maida Vale and Cities of London and Westminster.



## **3. RESPONSIBILITY FOR FUNCTIONS**

### **3.1. SUMMARY OF FUNCTIONS**

Under the Local Government Act 2000 and the Regulations made thereunder, the City Council's functions are either:

- (a) non-Executive functions - the responsibility of the full Council and/or its committees and sub-committees; or
- (b) the responsibility of the Executive (i.e. the Cabinet, Cabinet committees or individual members of the Cabinet); or
- (c) "local choice" functions (i.e. where, under the legislation, the City Council is free to choose whether the function is the responsibility of the Council or the Executive)

Both Council functions and Executive functions may (with some exceptions) be delegated to officers.

The following paragraphs and associated Appendices describe which functions are the responsibility of the Council and/or its committees and sub-committees, on the one hand and which functions are the responsibility of the Leader, Cabinet, Cabinet Committees or individual members of the Cabinet on the other. They also set out which functions have been delegated to officers.

### **3.2. RESPONSIBILITY FOR COUNCIL FUNCTIONS**

The functions which may only be exercised by the Full Council are set out in Section 2 of this Chapter. Other Council functions are delegated to committees and sub-committees of the Council as set out in in their terms of reference

The Council may from time to time abolish or create new committees and the committees may from time to time abolish or create new sub-committees.

Furthermore, the membership of the committees and sub-committees may be changed in accordance with the wishes of the political groups or the Council. Lists of the current memberships of the Council's committees and sub-committees are set out in Chapter 5.

The functions of the Council and its committees and sub-committees which have been delegated to officers are set in Chapter 6. These delegations may from time to time be amended by the Council, the relevant committee or sub-committee or in the case of executive functions by the Leader of the Council.

### **3.3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

All Executive functions are vested in the Leader who may retain these or allocate these to the Cabinet, a Committee, an individual Cabinet member or delegate to an officer. Details of these allocations are set out in Chapter 3.

The executive functions delegated to officers are set out in Chapter 6. These delegations can be amended by the Cabinet, the Leader or individual Cabinet members as appropriate.

### **3.4. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

"Local Choice" functions have been allocated to the Executive or Council as indicated in Chapter 3.

Where the function is a Council function the committee and/or sub-committee responsible for the function is also indicated. Where the function is delegated to an officer this is also indicated.

Similarly, where the function is an executive function, the relevant Cabinet member responsible for the function is indicated as well as any delegation of the function to an officer.

### **3.5. JOINT ARRANGEMENTS**

The Council has established the following joint arrangements:-

With the Corporation of London and all 32 other London boroughs namely the London Boroughs of Barking & Dagenham; Barnet; Bexley; Brent; Bromley; Camden; Croydon; Ealing; Enfield; Greenwich; Hackney; Hammersmith & Fulham; Haringey; Harrow; Havering; Hillingdon; Hounslow; Islington; Kensington & Chelsea; Kingston upon Thames; Lambeth; Lewisham; Merton; Newham; Redbridge; Richmond upon Thames; Southwark; Sutton; Tower Hamlets; Waltham Forest and Wandsworth in respect of:-

(1) The London Councils Grants Committee

To carry out functions under a scheme established under Section 48 of the Local Government Act 1985 in respect of the administration of grants to voluntary organisations on behalf of participating boroughs and in accordance with the constitutional and procedural arrangements set out in the said scheme.

(2) London Councils

To carry out the functions in respect of:-

(a) research, information and policy development;

- (b) functions under Section 48(10) of the Local Government Act 1985 (Review of Needs of Greater London) relating to the administration of grants by the London Boroughs Grants Committee above;
- (c) research, advice and policy development functions relating to London Local Authorities in their role as employers formerly undertaken the Greater London Employers Association;
- (d) to approve an annual policy statement submitted by the Transport Committee for London;
- (e) other general functions calculated to facilitate or which are conducive or incidental to the above, and,
- (f) such other functions as may from time to time be delegated by the member authorities, all of the above being more particularly set out in an agreement made in Section 101 of the Local Government Act 1972 dated 1<sup>st</sup> April 2000 and in accordance with the constitutional and procedural arrangements set out therein.

With the Corporation of London and 26 other London Boroughs namely the London Boroughs of Barking & Dagenham; Bexley; Brent; Camden; Croydon; Ealing; Enfield; Greenwich; Hackney; Hammersmith & Fulham; Haringey; Havering; Hounslow; Islington; Kensington & Chelsea; Kingston upon Thames; Lambeth; Lewisham; Merton; Newham; Redbridge; Richmond upon Thames; Southwark; Sutton; Tower Hamlets; Waltham Forest in respect of:-

(3) The London Councils Transport and Environment Committee

To carry out functions under Sections 73 and 74 of the Road Traffic Act 1991 in respect of parking adjudication and ancillary functions set out in an agreement made under Section 101 of the Local Government Act 1972 dated 15<sup>th</sup> January 1998 in accordance with the constitutional and procedural arrangements set out therein.

(4) North West London Joint Health Overview and Scrutiny Committee

Comprised of the eight boroughs of North West London (Ealing, H&F, RBKC, Westminster, Harrow, Hillingdon, Brent, Hounslow) plus *Richmond-upon-Thames (observer)*.

(5) Joint Health and Wellbeing Board

The Westminster and Royal Borough of Kensington and Chelsea (the Bi-Borough) Health and Wellbeing Board will provide strong and effective leadership across the local authorities and NHS partners by setting a clear direction, across traditional boundaries, to deliver change and fresh thinking.

The Bi-Borough Board will work in partnership to address health issues that cannot be tackled by one organisation alone and to undertake joint commissioning with partners where this will deliver the best value for money for investment.

# **CHAPTER 3 – THE LEADER AND THE CABINET**

1. THE EXECUTIVE - LEADER AND THE CABINET
2. THE CABINET – TERMS OF REFERENCE
3. LEADER AND CABINET PROCEDURE RULES
4. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES
5. COMMITTEES OF THE CABINET
6. CABINET MEMBERS AND THEIR POWERS
7. LOCAL CHOICE FUNCTIONS
8. JOINT ARRANGEMENTS

# **1. THE EXECUTIVE - LEADER AND THE CABINET**

## **1.1. ROLE**

The executive 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.

## **1.2. FORM AND COMPOSITION**

The executive will consist of the Leader together with other councillors, the precise number of which is determined by the Leader but cannot be more than 10, including the Leader, appointed to the Cabinet by the Leader.

## **1.3. LEADER**

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

- i. they resigns from the office; or
- ii. they are no longer a councillor; or
- iii. they are removed from office by resolution of the Council.

The Leader of the Council will be elected at the Annual Council Meeting in the year of the City Council elections.

## **1.4. OTHER CABINET MEMBERS**

Other Cabinet members shall hold office until:

- i. they resign from office; or
- ii. they are no longer councillors; or
- iii. they are removed from office by the Leader who must give written notice of any removal to the proper officer.

## **1.5. PROCEEDINGS OF THE EXECUTIVE**

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules and, so far as relevant, the Council Procedure Rules set out in Chapter 2 of this Constitution.

## **1.6. RESPONSIBILITY FOR FUNCTIONS**

The Proper Officer will on behalf of the Leader maintain a list in this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions and of non-decision making Deputy Cabinet Members.



## **2. THE CABINET – TERMS OF REFERENCE**

### **1. CONSTITUTION**

The Leader and the other members of the Cabinet as appointed by them not exceeding 10 Members (including the Leader).

### **2. TERMS OF REFERENCE**

Subject always to the budget and policy framework approved by the full Council; executive functions in relation to the following:

#### **(1) POLICY PLANNING AND ADVICE**

- (a) to review and recommend to the Full Council policies and strategies which form the policy framework of the Council, unless this function is being carried out by the Cabinet Member responsible;
- (b) to keep under review the Council's objectives and to co-ordinate plans for their achievement;
- (c) within the framework approved by full Council to determine overall Council priorities for services and projects and to re-allocate financial and other resources therefore;
- (d) to require Cabinet Members to consider or to review the detailed application of service policies;
- (e) to consider all matters which, in the opinion of the Leader of the Council or the Chief Executive, involve questions of major policy or which requires co-ordination of decisions between Cabinet Members;
- (f) to advise Cabinet Members on such matters as have been referred by them for such advice or upon which the Cabinet considers they should have done;
- (g) To determine matters within the terms of reference of individual Cabinet Members where a dispute has arisen on the matter in question between the relevant Cabinet member and the Chair of the relevant Policy and Scrutiny Committee;
- (h) To meet any other requirements incumbent on the Cabinet as set out in the Constitution.

#### **(2) BUDGET PREPARATION AND FINANCIAL MANAGEMENT**

- (a) within the framework approved by the full Council the overall control of the finances of the Council;

- (b) to consider and submit for approval annually a programme of capital expenditure and its revenue implications for the General Fund and the Housing Revenue Account for the succeeding five years and the capital estimates for the next financial year;
- (c) to indicate to Cabinet Members the limits within which revenue budgets - including the Housing Revenue Account, shall be framed for approval by the Council and to examine their individual revenue forecasts;
- (d) to recommend to the Council for approval the annual revenue and capital estimates and the Council Tax levied after making provision for contingencies and balances and taking into account any other factor that may affect the level of the Council Tax and the National Non Domestic Rate.
- (e) to take decisions on any supplementary estimates requests where the Cabinet Member for Finance, Corporate and Customer Services is minded to defer or refuse a request.
- (f) to recommend for approval any strategy or plan for the control of the Council's capital expenditure or borrowing.

### (3) DEPARTMENTAL ORGANISATION

To have responsibility for the Departmental Organisation of the City Council.

**WESTMINSTER CITY COUNCIL  
MEMBERS OF THE CABINET**

<b>Portfolio</b>	<b>Name</b>	<b>Ward</b>
Leader of the Council	Councillor Adam Hug	Westbourne
Deputy Leader and Cabinet Member for Communities and Public Protection	Councillor Aicha Less	Church Street
Deputy Leader and Cabinet Member for Young People,, Culture and Learning	Councillor Tim Roca	Harrow Road
Cabinet Member for Finance and Council Reform	Councillor David Boothroyd	Westbourne
Cabinet Member for Adult Social Care, Public Health and Voluntary Community Sector	Councillor Nafsika Butler-Thalassis	Maida Vale
Cabinet Member for Planning and Economic Development	Councillor Geoff Barraclough	Maida Vale
Cabinet Member for City Management and Air Quality	Councillor Paul Dimoldenberg	Hyde Park
Cabinet Member for Housing Services	Councillor Liza Begum	Pimlico South
Cabinet Member for Climate Action, Regeneration and Renters	Councillor Matt Noble	Church Street
Cabinet Member for Resident Participation, Consultation Reform and Leisure	Councillor Cara Sanquest	Queen's Park

## DEPUTY CABINET MEMBERS

<b>Portfolio</b>	<b>Special Area of Interest</b>	<b>Name</b>	<b>Ward</b>
City Management and Air Quality	City Management and Air Quality	Councillor Max Sullivan	Bayswater
Young People, Learning and Culture	Culture, Leisure and the Arts	Councillor Jessica Toale	West End
Climate Action, Regeneration and Renters  City Management and Air Quality	Climate Action and Biodiversity	Councillor Ryan Jude	Lancaster Gate
Finance and Council Reform  Housing Services	Housing Improvement and Procurement	Councillor Ellie Ormsby	Lancaster Gate
Planning and Economic Development	Planning and Economic Development	Councillor James Small-Edwards	Bayswater
Housing Services  Adult Social Care, Public Health and Voluntary Sector  Climate Action, Regeneration and Renters	Adult Social Care, Supported and Specialist Housing	Councillor Maggie Carman	Bayswater
Planning and Economic Development  Finance and Council Reform	Fairer Working	Councillor Robert Eagleton	Pimlico South
Planning and Economic Development  Resident Participation, Consultation Reform and Leisure	Equalities and Skills	Councillor Sara Hassan	Maida Vale
Young People, Learning and Culture  Communities and Public Protection	Young People and Public Protection	Councillor Hamza Taouzzale	Queen's Park

### **3. LEADER AND CABINET PROCEDURE RULES**

#### **HOW DOES THE EXECUTIVE OPERATE?**

##### **3.1. WHO MAY MAKE EXECUTIVE DECISIONS?**

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- iv. the executive as a whole;
- v. a committee of the executive;
- vi. an individual member of the executive, including the Leader;
- vii. an officer;
- viii. joint arrangements; or
- ix. another local authority.

##### **3.2. DELEGATION BY THE LEADER**

At the annual meeting of the Council, immediately following the full City Council elections (or otherwise as necessary), the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation in this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- i. the names, addresses for correspondence and wards of the Councillors appointed to the Cabinet by the Leader;
- ii. the delegations to Cabinet members individually including the limitation on their authority, if any;
- iii. the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- iv. the nature and extent of any delegation of executive functions to any joint committee; and
- v. the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **3.3. SUB-DELEGATION OF EXECUTIVE FUNCTIONS**

Unless the Council directs otherwise, the Cabinet may delegate further to a committee of the Cabinet or to an officer.

Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

Unless the Leader directs otherwise, a Cabinet member to whom functions have been delegated by the Leader may delegate further 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.

### **3.4. THE COUNCIL'S SCHEME OF DELEGATION AND EXECUTIVE FUNCTIONS**

- i. Subject to (ii) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council.
- ii. As the Leader is able to decide whether to delegate executive functions, they may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, or committee. The proper officer will notify all members of the Council setting out the changes made by the Leader.
- iii. Similarly unless the Leader otherwise directs, delegations by the Cabinet (to Cabinet Committees or officers) or by Cabinet Committees or Cabinet Members (to officers) can be amended or withdrawn by the body or person concerned by written notice in the same way.
- iv. Where the Leader or Cabinet seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when they have served it on its chair.

### **3.5. 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 Chapter 7 of this Constitution.

If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter 7 of this Constitution.

If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Chapter 7 of this Constitution.

### **3.6. EXECUTIVE MEETINGS – WHEN AND WHERE?**

The Cabinet will meet in accordance with a programme of meetings agreed by the Leader. A meeting may be cancelled by the Leader where there is insufficient business. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### **3.7. PUBLIC OR PRIVATE MEETINGS OF THE EXECUTIVE?**

Cabinet meetings and meetings of Cabinet committees will be held in public save where there would otherwise be a disclosure of confidential or exempt information within the meaning of the Local Government Act 1972 as amended.

### **3.8. QUORUM**

The quorum for a meeting of the Cabinet, or a committee of it, shall be 3 and 2 respectively. Additionally, the Cabinet shall not be quorate unless either the Leader, -Deputy Leader or Chief Whip (or some other member of the Cabinet nominated by the Leader or Deputy Leader to chair the meeting) is present.

### **3.9. HOW ARE DECISIONS TO BE TAKEN BY THE EXECUTIVE?**

Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Chapter 8 of the Constitution.

Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **HOW ARE THE EXECUTIVE MEETINGS CONDUCTED?**

### **3.10. WHO PRESIDES?**

The Leader, or in their absence, the Deputy Leader, will preside at meetings of the Cabinet (unless both are unavailable, in which case the Chief Whip or

some other Cabinet Member nominated by the Leader or Deputy Leader will chair the meeting).

The Leader will appoint a member of any Cabinet Committee to preside at meetings of that committee.

### **3.11. WHO MAY ATTEND?**

All members of the Council may attend meetings of the Cabinet or Cabinet Committees but may speak only if they are a member thereof or with the consent of the person presiding.

### **3.12. WHAT BUSINESS?**

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

- i. consideration of the minutes of the last meeting;
- ii. declarations of interest, if any;
- iii. any matters referred to the Cabinet or Cabinet Committee (whether by a policy and scrutiny committee or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;
- iv. consideration of any reports from policy and scrutiny committees;
- v. other matters set out in the agenda for the meeting.

### **3.13. CONSULTATION**

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

### **3.14. WHO CAN PUT ITEMS ON THE CABINET AGENDA?**

The agenda for Cabinet meetings and meetings of Cabinet Committees will be determined by the Proper Officer in consultation with the Leader or Chair of the relevant Cabinet Committee as appropriate.



### **3.15. INDIVIDUAL CABINET MEMBER DECISIONS**

Upon consideration of a report from the relevant Chief Officer(s) issued in accordance with the relevant regulations, individual Members of the Cabinet may take decisions in respect of the executive functions set out in their terms of reference, subject to:-

- i. the budget and policy framework approved by the full Council;
- ii. the exclusion of any matter which falls within the terms of reference of the Cabinet;
- iii. the exclusion of matters falling within the delegated power of officers unless referred to the Cabinet member by the relevant Chief Officer or "called in" by the Cabinet member (see below); and

If the relevant Chief Officer is unwilling to refer a matter (or class of matters) falling within their delegated powers to the Cabinet Member for decision, then the Cabinet member may call the matter (or class of matters) in for their own decision by giving written notice to the relevant Chief Officer. A copy of the written notice shall at the same time be given to the Council's Monitoring Officer. Where a matter or class of matters has been "called in" in accordance with this provision, the power or powers in question shall, until the notice is withdrawn, be exercisable by the Cabinet member and not the Chief Officer unless the notice is countermanded by the Leader, or the Monitoring Officer advises that the power or powers in question are not appropriate to be discharged by the Cabinet member for legal or technical reasons.

## **4. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

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

The Council will be responsible for the adoption of its budget and policy framework as set out in this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

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

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

- i. Each year Chief Officers and relevant Cabinet Members will update Policy and Scrutiny Committees on potential issues for Committees work programmes (see the Policy and Scrutiny Procedures Rules) including any matters which form part of the Budget and Policy Framework, which will require adoption in the coming year.
- ii. If a Policy and Scrutiny Committee wishes to include the matter into the work programme the Chief Officer will ensure that the Committee is consulted in good time to enable the Committee's views to be considered by the Cabinet or Cabinet Member prior to firm proposals being submitted to the Council. In the event that the Policy and Scrutiny Committee chooses to consider a report which forms part of the Budget and Policy Framework then its views shall be included in the report submitted to the Cabinet or Cabinet Member who shall take them into account in drawing up firm proposals for submission to the Council. The report to Council will reflect the comments made by Policy and Scrutiny Committee consultees and the Cabinet's response. It should be noted that the terms of reference of the Budget Scrutiny Task Group include considering, on behalf of the Policy and Scrutiny Committees, reports on budget options and draft business plans and estimates at the appropriate stages in the business planning cycle and submitting recommendations/comments thereon to the Cabinet and/or Cabinet Members.
- iii. Once the Cabinet or relevant Cabinet Member has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- iv. In reaching a decision, the Council may adopt the Cabinet's/Cabinet Member's proposals, amend them, refer them back to the Cabinet for further consideration, or, substitute its own proposals in their place.
- v. If it accepts the recommendation of the Cabinet/Cabinet Member without amendment, or the Leader of the Council on behalf of the Cabinet or the Cabinet Member supports the amended recommendation the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle

decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

- vi. The decision will be publicised in accordance with the access to information rules.
- vii. An in-principle decision will automatically become effective on the expiry of 5 working days from the date of the Council's decision, unless the Leader informs the proper officer in writing within the period of 5 working days that they object to the decision becoming effective and provides reasons why. If the Leader informs the proper officer that he has no objection it shall become effective upon receipt of such notice.

In that case, the proper officer will call a Council meeting to take place within a further 10 working days. The Council will be required to re-consider its decision and the Leader's written submission. The Council may:

- a) approve the Cabinet's/Cabinet Member's recommendation by a simple majority of votes cast at the meeting; or
  - b) approve a different decision which does not accord with the recommendation of the Cabinet/Cabinet Member's by a simple majority.
- viii. The decision shall then be made public in accordance with the Access to Information rules, and shall be implemented immediately;
  - ix. In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet or Cabinet Member and these will be set out in the financial procedural rules. Any other changes to the policy and budgetary framework are reserved to the Council.

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

Subject to the provisions of paragraph 4.2 (ix) the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, 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 4.4 below.

If the Cabinet, committees of the Cabinet, individual members of the Cabinet or any officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the monitoring officer or, as appropriate, the chief financial 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 4.4 (urgent decisions outside the budget and policy framework) shall apply.

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

The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, 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:

- i. if it is not practical to convene a quorate meeting of the full Council;  
and
- ii. if the chair of a relevant Policy and Scrutiny 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 Scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chair of a relevant Policy and Scrutiny committee the consent of the Lord Mayor will be sufficient.

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

#### **4.5. VIREMENT**

"Virement" is the ability to meet increased expenditure or reduced income under one expenditure vote from savings in another expenditure vote. The City Council's rules on virement are set out in the Financial Regulations in Chapter 9 of the Constitution.

#### **4.6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, 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 those changes:

- i. which will result in the closure, amendment or discontinuance of a service or part of service to meet a budgetary constraint;
- ii. necessary to ensure compliance with the law, ministerial direction or government guidance;
- iii. in relation to the policy framework in respect of a policy which would normally be agreed periodically by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
- iv. which are within the scope set out for in year charges in the policy document in question, or when the policy document was approved by the Council.

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

Where a policy and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer or, as appropriate, chief financial officer.

In respect of functions which are the responsibility of the Cabinet, the monitoring officer's report or chief financial officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the overview and scrutiny committee if the monitoring officer or the chief finance officer conclude that the decision was not a departure.

If the decision has yet to be made, or has been made but not yet implemented, and the advice from the monitoring officer or the chief financial officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the overview and scrutiny committee may refer the matter to 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 meet within 10 working days of the request by the policy and scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the monitoring officer and/or the chief financial officer. The Council may either:

- i. endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further

action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; *or*

- ii. amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; *or*
- iii. where the council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the monitoring officer/ chief financial officer.

#### **4.8. SUSPENSION OF PROCEDURAL REQUIREMENTS**

A procedural requirement of these rules may be suspended to the extent that the Monitoring Officer advises is strictly necessary to meet a legal requirement.

## **5. COMMITTEES OF THE CABINET**

### **URGENCY COMMITTEE OF THE CABINET**

#### **CONSTITUTION**

3 Members of the Cabinet, as notified to the Chief Executive by the Leader of the Council or in their absence the Deputy Leader of the Council.

#### **TERMS OF REFERENCE**

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 programmed meeting.
2. To make a recommendation direct to the Council on any urgent matters which by statute or under the City Council's executive arrangements must be determined by full Council.

## **WESTMINSTER SHAREHOLDER COMMITTEE**

### **1. OVERVIEW**

1.1 The Shareholder Committee forms part of the overall governance arrangements for Westminster City Council ("**the Council**") in relation to companies and other legal entities which are wholly or partly owned or controlled by the Council (including where such control comes about indirectly, such as via a loan agreement) (each a "**Subsidiary**" and together the "**Subsidiaries**").

### **2. CONSTITUTION**

2.1 The members of the Shareholder Committee will be appointed by the Leader of the Council. Only Cabinet Members may sit on the Shareholder Committee.

2.2 Each Shareholder Committee member may nominate an alternate Cabinet Member to attend a meeting in their place.

2.3 The Shareholder Committee will be supported by Council officers as required.

2.4 The Shareholder Committee will appoint the Leader as Chair of the Shareholder Committee. If the Chair is not present at the start of a meeting of the Shareholder Committee, those members present will appoint one of the members present to chair that meeting.

2.5 Additional advisors, who do not need to be officers or members of the Council, may be invited to attend the Shareholder Committee as required.

### **3. ROLE OF THE SHAREHOLDER COMMITTEE**

3.1 The Shareholder Committee will have a role in ensuring proper governance of the Council's Subsidiaries, such role to include:

3.1.1 monitoring information from each Subsidiary, in particular on financial and other risks and escalating such risks within the Council as appropriate;

3.1.2 exercising decisions relating to the Council's role as shareholder, member, owner, lender, or other position of significant control over the Subsidiary, where those decisions have been delegated to the Shareholder Committee; and



3.1.3 making reports and recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority.

3.2 It is expected that each Subsidiary will enter into a form of agreement with the Council (whether as owner, controller or lender) setting out the basis of the relationship between them (each a "**Memorandum of Agreement**").

3.3 A detailed description of the Shareholder Committee's role in relation to each Subsidiary will be set out in the relevant Memorandum of Agreement.

3.4 Authority to make decisions on behalf of the Council is delegated to the Shareholder Committee for each Subsidiary as follows:

3.4.1 The following decisions are delegated to the Shareholder Committee for all Subsidiaries:

Altering in any respect the articles of association of a Subsidiary (or any other governing document such as the Rules of a Community Benefit Society)
Altering the rights attaching to any of the shares in a Subsidiary
Permitting the registration of any person as a shareholder or member of a Subsidiary
Nominating directors to be appointed on the board of a Subsidiary and notifying a Subsidiary to remove directors from its board
Increasing the amount of a Subsidiary's issued share capital
Altering the name of any Subsidiary
Adopting, reviewing or amending a Subsidiary's Business Plan
Where a Subsidiary fails to produce a Business Plan as required by its Memorandum of Agreement, producing that Subsidiary's Business Plan
Directing the board of a Subsidiary to take or to refrain from taking a particular action

3.4.2 Any Memorandum of Agreement entered into with a Subsidiary may identify additional decisions which are delegated by Cabinet to the Shareholder Committee in relation to that Subsidiary only.

3.5 Decisions which are not delegated to the Shareholder Committee in accordance with 3.4 above will be taken through the usual decision-making processes in accordance with the Council's governance and constitutional framework. This will include decisions relating to the issue of loan capital in relation to any Subsidiary and to any approvals relating to any intra-group loans.

#### **4. OPERATION OF THE SHAREHOLDER COMMITTEE**

- 4.1 The Shareholder Committee will meet three times per year, or more frequently if required.
- 4.2 The quorum for a meeting of the Shareholder Committee is a minimum of 2 members.
- 4.3 Meetings will be held in public or otherwise in line with the Council's democratic meeting protocol. There may be particular matters or agenda items which are required to be considered in private due to commercial confidentiality, and these will be handled in accordance with the Council's usual democratic protocol.
- 4.4 Minutes and agendas will be managed and published in accordance with the Council's usual democratic protocol.
- 4.5 The Shareholder Committee shall make its decisions as follows:
  - 4.5.1 At meetings of its members by consensus of those present, unless any member of the Shareholder Committee requires a vote, in which event a majority decision will be taken with each member of the Shareholder Committee present having a single vote. Advisors and officers present to support the Shareholder Committee will not have a vote. The Chair of the meeting has a casting vote in the event that there is no clear majority; or
  - 4.5.2 In cases of urgency, by a decision made by the Leader or by an alternate Cabinet Member nominated by the Leader.
  - 4.5.3 Certain decisions, including the nomination of Directors, may be taken outside of meetings by signed resolution of a majority of Committee Members. The Monitoring Officer will determine if a decision may be taken in this manner.
- 4.6 After each meeting, the Chair shall approve the minutes and authorise the implementation of the Shareholder Committee's decisions, including where relevant the signature of any documents by appropriate Council signatories.
- 4.7 The Shareholder Committee will review the Terms of Reference annually and make any necessary recommendations to the Leader and Cabinet.

## 6. CABINET MEMBERS AND THEIR POWERS

### TERMS OF REFERENCE – DELEGATIONS TO ALL CABINET MEMBERS

Each individual Cabinet Member will have the following delegations to the extent that they relate to the services within their portfolios:

#### CONTRACTS

Subject to the policies and procedures approved by the Cabinet Member for Finance and Council Reform:

- a) To award all contracts exceeding £1,500,000 and consultants' agreements exceeding £300,000 within the Terms of Reference of the Cabinet Member and relevant Chief Officer, with the exception of contracts which have been referred to the Cabinet Member for Finance and Council Reform on the basis that there are corporate or major implications which need to be considered.
- b) To monitor all contracts within the Terms of Reference of the Cabinet Member where the contract value exceeds £1,500,000 (£300,000 in respect of consultant's agreements).
- c) To approve contract overspends and/or variations of contracts in the following circumstances:
  - Where the Total Contract Value (TCV) (which includes any previous contract overspend and/or contract variations) is below £1.5m, or below £300k for Consultancy, but the value of the proposed contract overspend and/or contract variation will take the revised Total Contract Value to/above £1.5m or to/above £300k for consultancy
  - Where the Total Contract Value (which includes any previous contract overspend and/or contract variations) is £1.5m or above, or £300k or above for Consultancy, and the value of the proposed contract overspend and/or contract variation is valued at either, a minimum of £2m or more, or is 10% or more of the Total Contract Value (whichever criteria is reached first). e.g:
    - TCV (Consultancy) £350k and proposed contract variation/overspend is valued at an additional £35k (10% of the original contract award value)
    - TCV £1.5m and proposed contract variation/overspend is valued at an additional £150,000.00 (10% of the original contract award value)
    - TCV £30m and the proposed contract variation/overspend is valued at an additional £2.2m (exceeds minimum increase in additional spend threshold of £2m)
    - TCV £80m and the proposed contract variation/overspend is valued at an additional £5m (exceeds minimum increase in additional spend threshold of £2m)

- TCV £500m and the proposed contract variation/overspend is valued at an additional £3m (exceeds minimum increase in additional spend threshold of £2m)
  - No further Cabinet Member approvals will be required for permissible contract extensions, where its full provision was accounted for in the original contract award. The original Cabinet Member approval would have been provided on the basis that the proposed contract extension does not changes the scope, risk profile or value of the contract (provided at the time of the original contract award). Where a change of this nature has occurred, new Cabinet member approvals will need to be sought.
- d) To approve claims in excess of £150,000 from contractors for contracts within the Cabinet Member's Terms of Reference.
  - e) To make decisions on requests for waiver of the Procurement Code in respect of contracts with overall values of more than £1,500,000 (£300,000 for consultancy agreements) for contracts within the Cabinet Member's Terms of Reference.
  - f) To consider such other contractual matters as may be required by the Procurement Code.
  - g) To consider settlement of disputes which exceed £150,000.

## **POLICY MAKING**

To lead the development of strategic policy contained in the Cabinet Members terms of reference, referring matters in the Council's policy framework to Full Council for decision.

## **STAFFING MATTERS**

Staffing matters which fall within the scope of the Cabinet Member's Terms of Reference.

Where proposals involve redundancy/"early retirement" payments these will also be subject to the endorsement of the Cabinet Member for Finance and Council Reform.

## **FINANCIAL MATTERS**

To approve capital expenditure in accordance with the Financial Procedures on schemes within the Terms of Reference for the Cabinet Member which form part of the approved Capital Programme.

Such other financial matters as set out in the Financial Regulations contained in the Council's Constitution.

## **ETHICAL STANDARDS**

To have responsibility for ensuring that all activities within the remit of the Cabinet Member are carried out to the highest ethical standards.

## **COMMUNITY ENGAGEMENT**

To lead the Council's engagement with our communities, driving standards of openness and transparency in everything we do and particular in consultation around decision making.

## **EQUALITY, DIVERSITY AND INCLUSION**

To lead the Council's commitment to equality, diversity and inclusion both internally and in interactions with partners and communities.

## **CLIMATE ACTION**

To lead the Council's commitments to:

- Become a net zero carbon emissions Council by 2030
- Reduce carbon emissions in the city to net zero by 2040; and
- Become a truly zero carbon Council by 2050

by working across all areas of service delivery.

## **CROSS-CABINET CONSULTATION**

To consult with other Cabinet Members on major matters affecting their portfolio, as appropriate, to enable them to maintain a general oversight across portfolios as described in their Terms of Reference.

## **THE LEADER OF THE COUNCIL (CABINET MEMBER)**

### **CORPORATE STRATEGY DIRECTION**

To provide leadership to the Cabinet in the development and delivery of corporate strategy and policy.

### **PEOPLE SERVICES**

To set policy and strategic direction for

- All Human Resources and staffing matters which require Member-level direction;
- Grievance, pay grading, and disciplinary appeals; training, development and staff education; wellbeing and welfare.
- Staff consultation and industrial relations arrangements; recruitment and selection; superannuation, pensions, compensations and gratuities.

### **EMERGENCY PLANNING**

To set policy and strategic direction for:

- Emergency Planning, including the relationship with the Local Fire Authority,
- The Council's civic contingency planning arrangements and security (this relates to requests from the Metropolitan Police Service, Cabinet Office, Government Security Services and third parties for action by the City Council, which are sought in response to security issues).

### **GOVERNANCE AND APPOINTMENTS**

To chair the Cabinet meetings, appoint/dismiss other Cabinet Members and the Deputy Leader(s) and appoint/dismiss committees of the Cabinet with Terms of Reference.

To determine the terms of reference of the Cabinet, the Deputy Leader(s) and other individual Cabinet Members. To appoint and determine the terms of reference of any non-decision-making Lead Members.

To exercise any executive function not otherwise allocated to either the Cabinet or any other individual Cabinet Member, or to delegate such functions to another Cabinet Member, a committee of the Cabinet, or to an officer.

In the absence or unavailability of another Cabinet Member, or on written notice to the relevant Cabinet Member, the Leader may exercise any of that Cabinet Member's functions themselves or arrange for the discharge of those functions by another Cabinet Member(s), a committee of the Cabinet, or an officer, including those functions of the full Cabinet.

To refer matters for consideration by the Cabinet in accordance with paragraph 2(1)(e) of the Terms of Reference of the Cabinet.

To appoint and determine the membership and terms of reference of any non-decision-making Cabinet Working Parties, in consultation with relevant Cabinet Members.

To agree or confirm arrangements for the establishment of joint committees under Section 101 (5) of the Local Government Act 1972 in so far as the functions of any such joint committee are executive functions and to appoint Members thereto, save to the extent that the Leader delegates this function to another Cabinet Member or Cabinet Members.

### **CHIEF EXECUTIVE APPRAISAL**

To conduct the annual appraisal, including the setting of annual targets, of the Chief Executive.

### **STRATEGIC PARTNERSHIPS**

To have oversight of the Council's links with the local authority associations and to act as Lead Member on the Local Government Association and London Councils.

To lead on relations with the Greater London Authority, the Mayor of London and other such external partners.

## **DEPUTY LEADER AND CABINET MEMBER FOR COMMUNITIES, CHILDREN AND PUBLIC PROTECTION**

### **DEPUTY LEADER**

To deputise for the Leader as directed.

To exercise the functions of the Leader in the absence or unavailability of the Leader, except the appointment and dismissal of Cabinet Members.

To coordinate and oversee the Council's response regarding the national Census, including any matters arising from the Census results together with the Cabinet Member for Finance and Council Reform.

### **PUBLIC PROTECTION**

To set policy and strategic direction for:

- The Council's approach to reducing crime, disorder and antisocial behaviour including our work through the Safer Westminster Partnership;
- The Council's relationships with the Metropolitan Police;
- Services which tackle domestic abuse, including the Multi Agency Risk Assessment Conference process;
- Services and activity which address antisocial behaviour, nuisance, noise, and road safety, including action to tackle pedicabs;
- The Council's Prevent duties in accordance with the Counter-terrorism and Security Act 2015;
- The Council's approach to deployment and operation of CCTV, in consultation with other Cabinet Members where necessary, including the Cabinet Member for Housing where cameras operate on housing estates;
- The Council's duties under the Regulation of Investigatory Powers Act;
- Matters relating to gangs, serious youth violence and criminal exploitation of young people including the Integrated Gang and Exploitation Unit (18+).

### **LICENSING**

To set policy and strategic direction for Licensing, including enforcement and all those matters that fall under the remit of the Licensing Act 2003 and the Gambling Act 2005 and to do so in consultation with the Chairman of the Licensing Committee.

### **REGULATORY SERVICES**

To set policy and strategic direction for:

- Trading standards;
- Health and safety (public, not staff)
- Food safety;
- Pest control;
- Street trading enforcement including for street markets
- Environmental sciences
- Home improvements under the Disabled Facilities Grant.



## **CITY INSPECTORS**

To set policy and strategic direction for the deployment of City Inspectors for all regulatory enforcement and other activities; where this relates to non-regulatory issues this should be in consultation with the Cabinet Member for City Management and Air Quality.

## **COMMUNITY SUPPORT AND FAITH RELATIONS**

To set policy and strategic direction for:

- Westminster Connects;
- The Council's advice services, including providing support for communities from outside of the UK, in consultation with the Cabinet Member for Climate, Ecology and Culture where this support relates to registrar services and citizenship.
- The Council's relationship with the Westminster Faith Exchange;

## **COMMUNITY HUBS**

To set policy and strategic direction for the Community Hubs Programme.

## **CHILDREN'S SERVICES SAFEGUARDING AND VULNERABLE CHILDREN**

To act as the lead member for Children's Service by having political responsibility for the leadership, strategy and effectiveness of the Council's children's services. This includes sharing responsibility and setting policy and strategic direction for:

- Services which safeguard vulnerable children and young people, including early intervention.
- Provision for disabled children and those with Special Educational Needs;
- Provision of suitable home to school transport arrangements;
- The Council's role as effective and caring corporate parent for looked after children;
- The Council's role in partnership arrangements for children involved in the youth justice system, including the Youth Offending Team;

To be a "participating observer" (but non-decision making) of the Local Safeguarding Children's;

## **EDUCATION AND LEARNING**

To set policy and strategic direction for:

- Services which promote a diverse supply of strong schools, ensure fair access to schools and provide alternative provision for children outside of mainstream provision;
- The Council's statutory obligations in accordance with the School Admissions, the School Admissions Appeal Codes, guidance of Home to School travel and transport

- Promotion of early years provision and development of the early years market, and
- The promotion of young people and children's involvement in public decision making and participation in education and training for young people.

To be the Council's strategic lead in working with headteachers, school governors and academy sponsors and principals, to promote educational excellence for all children and young people and be ambitious in tackling underperformance.

### **REFUGEES, ASYLUM SEEKERS AND CITY OF SANCTUARY**

To set policy and strategic direction for:

- The Council's overall approach to supporting refugees and asylum seekers;
- The Council's response to refugee crises and any schemes enacted by the UK Government to resettle people from across the world;
- The delivery of the commitments made to make Westminster a City of Sanctuary

### **COMMUNITY ENGAGEMENT AND NEIGHBOURHOODS** *(delegation made on a temporary basis while the Cabinet Member for Resident Participation, Consultation Reform and Leisure is on Maternity Leave)*

To set policy and strategic direction for:

- The Council's Community Engagement Strategy, including raising the standard of consultation and engagement across the Council and widening participation;
- Liaison with Neighbourhood Forums (on non-designation and plan adoption matters) and Amenity Societies, in consultation with relevant Cabinet Members as necessary, most notably the Cabinet Member for Planning and Economic Development;
- Westminster Together or similar public forums or engagement events;
- Relationships with the Queen's Park Community Council.

To support the Cabinet Member for Planning and Economic Development in setting policy and strategic direction for the North Paddington Programme.

### **EQUITY, EQUALITY, DIVERSITY AND INCLUSION** *(delegation made on a temporary basis while the Cabinet Member for Resident Participation, Consultation Reform and Leisure is on Maternity Leave)*

To set policy and strategic direction for:

- The Council's work to promote equity, equality, diversity and inclusion across all Council practices and workings with external providers.
- The Council's Equalities Policy and statutory obligations and the Equality Act 2010.

## **DEPUTY LEADER AND CABINET MEMBER FOR ADULT SOCIAL CARE, PUBLIC HEALTH AND VOLUNTARY SECTOR**

### **DEPUTY LEADER**

To deputise for the Leader as directed.

To exercise the functions of the Leader in the absence or unavailability of the Leader, except the appointment and dismissal of Cabinet Members.

### **ADULT SOCIAL CARE AND PUBLIC HEALTH**

To set policy and strategic direction for:

- All Adult Social Care and Public Health matters.
- Services for vulnerable adults including older people learning disability, physical disability and mental health as per the requirements set out in the Care Act 2014.
- Services and support for Carers as per the requirements set out Care Act 2014.
- Public Health matters for children and young people, in consultation with the Cabinet Member for Communities, Children and Public Protection.
- The Council's relationships with the NHS, including Council functions under Section 75 of the Health Act 2006.
- All health-related functions exercised on behalf of an NHS body insofar as they relate to Adult Social Care.
- The provision and commissioning of quality care and support services for vulnerable adults and ensuring adequate standards in partnership with regulatory bodies where relevant to ensure safeguards are in place to protect service users.
- The safeguarding of vulnerable adults in line with the requirements of the Care Act 2014 and the practices recommended by the Pan London Safeguarding Adults Agreement.

The Cabinet Member for Adult Social Care, Public Health and Voluntary Community Sector will act as Chair (along with their counterpart in The Royal Borough of Kensington and Chelsea) of the Bi-Borough Health and Wellbeing Board and champion the health of people in Westminster across the full range of issues which may negatively or positively impact on physical or mental health. This may often involve close working with other Cabinet Members or partner agencies.

The Cabinet Member will discharge their responsibilities and roles in accordance with the framework provided by the following legislation:

- Local Authorities Social Services Act 1970
- Care Act 2014
- Mental Health Act 1983
- Mental Capacity Act 2005
- Health and Social Care Act 2012
- Health Act 2006

## **FOOD POVERTY STRATEGY**

To set policy and strategic direction for:

- The Council's food poverty strategy;
- The provision of additional assistance to community-led support services including food banks.

## **VOLUNTARY AND COMMUNITY SECTOR (VCS)**

To set policy and strategic direction for:

- The Council's engagement with the VCS;
- Core grants targeted towards the VCS.

**COMMUNITY INVESTMENT** *(delegation made on a temporary basis while the Cabinet Member for Resident Participation, Consultation Reform and Leisure is on Maternity Leave)*

To set policy and strategic direction for:

- The Ward budget programme;
- Community investment programmes and grants;
- Community capacity building;

## **CABINET MEMBER FOR PLANNING AND ECONOMIC DEVELOPMENT**

### **PLACE-SHAPING**

To set policy and strategic direction for:

- The Council's overall Place Shaping approach including any area-based documents or strategies to which other Cabinet Members and Chief Officers shall have regard to when developing and making decisions on specific projects;
- Urban design.

### **SMART CITY AND DIGITAL CONNECTIVITY**

To set policy and strategic direction for:

- The Smart City programme, in consultation with other Cabinet Members as relevant, including driving digital innovation throughout the city.
- The Council's strategy to promote investment in digital connectivity including broadband infrastructure, 5G and Wi-Fi in Westminster in collaboration with the Cabinet Member for City Management and Air Quality.
- Digital inclusion, in consultation with other Cabinet Members as relevant.

### **PLANNING FUNCTIONS, BUILDING CONTROL AND STREET NAMING**

To set policy and strategic direction for:

- Westminster's local plan, supplementary planning documents and all other related documentation as required under the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004;
- Any supplementary planning documents needed in consultation with other Cabinet Members as relevant;
- The Council's position with regard to the London and national planning framework;
- The discharge of the Council's duties to consider planning applications in line with the relevant statutory requirements;
- All other planning matters, including listed building including Planning Performance Agreements and planning enforcement;
- Sustainable urban drainage matters in consultation, as appropriate, with the Cabinet Member for City Management and Air Quality.
- Building Control; and
- Street Naming.

### **LONDON LOCAL AUTHORITIES ACT 2007**

To set policy and strategic direction for:

- All executive functions relating to Portable Advertisement Designation Areas in accordance with powers contained in the London Local Authorities Act 2007 and any other planning matters contained in this enactment not included in any other Cabinet Members terms of reference.

### **COMPULSORY PURCHASE ORDERS**

To issue Compulsory Purchase Orders (CPOs), except in matters relating to the Council's provision of new housing (which will be the responsibility of the Cabinet Member for Regeneration and Renters).

### **NEIGHBOURHOOD PLANNING COMMUNITY RIGHTS**

To set policy and strategic direction for:

- The designation of neighbourhood areas and forums;
- The development of Neighbourhood Plans including advising on general conformity;
- The Council's legal obligation to support the neighbourhood planning process.
- The Community Right to Bid Scheme
- The register of Assets of Community Value.

### **COMMUNITY INFRASTRUCTURE LEVY AND SECTION 106**

To set policy and strategic direction for:

- The Council's role in administration of the Community Infrastructure Levy both as a collecting authority on behalf of the Mayor of London and of a Westminster Community Infrastructure Levy as a charge setting authority.
- The distribution of appropriate funds to parish councils and allocations of funding for neighbourhoods.
- The management of the Section 106 fund and commitments, other than those S106 funds and commitments made to the Affordable Housing Fund, which are the responsibility of the Cabinet Member for Regeneration and Renters.
- To be responsible for decisions relating to Neighbourhood CIL where the value of the proposed project does not exceed £250,000. Where the value of a proposed project exceeds £250,000, or the Cabinet Member for Planning and Economic Development otherwise deems that the decision is of a sufficient level of complexity or scale, that decision will be brought to a meeting of Cabinet.

### **ECONOMIC DEVELOPMENT AND EMPLOYMENT**

To set policy and strategic direction for:

- Support to businesses, including small to medium sized enterprises, new start-ups, Business Improvement Districts (BIDS) (including exercising the Council's vote) and other business and enterprise development programmes;
- Markets and street trading in consultation with the Cabinet Member for Communities, Children and Public Protection;
- The evening and night-time economy, in consultation with other Cabinet Members as appropriate;
- Inward investment;

- The Council's Employment Service and other initiatives promoting employment, including training and apprenticeships for those 18 and over.

### **NORTH PADDINGTON**

To set policy and strategic direction for the North Paddington Programme, in consultation with the Cabinet Member for Resident Participation, Consultation Reform and Leisure. The Leader and other Cabinet Members as required should be consulted prior to any decisions being taken.

### **OXFORD STREET**

To set policy and strategic direction for the Oxford Street Programme. This includes all executive decision-making authority relating to the Oxford Street programme. The Leader and other Cabinet Members as required should be consulted prior to any decisions being taken.

### **WESTMINSTER ADULT EDUCATION SERVICE AND LIFELONG LEARNING**

To set policy and strategic direction for:

- The provision of lifelong learning services, including those provided by; the Westminster Adult Education Service (WAES).
- All matters relating to Post Compulsory Education awards and awards for further and higher education.

### **SKILLS**

To set policy and strategic direction for:

- Skills
- Matters relating to youth employment (under 18 years).
- Internships (16 – 17 years) and science, technology, engineering, arts and mathematics (STEAM) opportunities for those under 18.

## **CABINET MEMBER FOR FINANCE AND COUNCIL REFORM**

### **STRATEGIC FINANCE AND FINANCIAL MANAGEMENT**

To set policy and strategic direction for:

- Strategic Finance, most notably financial matters which, in the opinion of the Executive Director for Finance and Resources, have significant implications across portfolios;
- Financial practices and procedures within the approved budget framework (Financial Regulations);
- The Council's Capital Programme including financing and monitoring of the Capital Programme;
- The Council's revenue budget, including monitoring all expenditure out of revenue against the approved annual estimates;
- The Council's Treasury Management Strategy.

To determine, within the approved budget framework, any re-allocation of funds between services during the financial year.

To determine any proposals for expenditure, which Cabinet Members cannot meet from their respective Revenue or Capital estimates, and to advise the Cabinet of the decisions taken.

### **FINANCIAL AND ASSET ADMINISTRATION**

To set policy and strategic direction for:

- Revenue collection;
- Cash flow management, borrowing, lending and investments;
- Green finance and green investment mechanisms, in consultation with the Cabinet Member for Climate, Ecology and Culture.
- Internal audit and anti-fraud;
- All insurance matters;
- Loan provision or grant to companies, including decisions relating to the issue of loan capital in relation to any subsidiary and to any approvals relating to any intra-group loans except those delegated to the Shareholder Committee.
- Benefits and benefits policy;
- Business rates.

### **CORPORATE PROPERTY**

To set policy and strategic direction for:

- All property assets, except schemes delivered jointly with other Cabinet Members. Housing management and development of housing schemes sits outside the area of responsibility.
- All property assets of the Council allocated for use for operational and service purposes;
- The future of property identified by other Cabinet Members as surplus to their requirements;



- The use of powers under section 203 of the Housing and Planning Act 2016 to override easements, restrictive covenants or other rights in respect of land, in consultation with the other Cabinet Member(s) where such use affects another Cabinet Member's area of responsibility;
- The delivery of major capital projects within Council-owned buildings and programmes across services, in conjunction with the Cabinet Member responsible for delivery of the service;
- Capital maintenance and delivery of externally funded projects across schools and operational buildings.

To determine matters relating to appropriation of land, including appropriation for planning purposes. Any appropriations must be made in consultation with the other Cabinet Member(s) where such appropriation affects another Cabinet Member's area of responsibility.

To assist the Cabinet Member for Housing Services with the management and maintenance of the Council's commercial property within the HRA.

### **PROCUREMENT AND CONTRACT MANAGEMENT**

To set policy and strategic direction for:

- The Council's Procurement Strategies including contract management and central commissioning;
- The Council's Procurement Code, including approval of changes to the Code and Responsible Procurement and Commissioning Strategy, including the Council's commitments to social value.
- The Council's contract processes relating to market testing and competitive tendering;
- Contract management on behalf of the City Council and, on the advice of the Chief Executive, to review and take decisions on any City Council contract which is giving cause for concern and to inform the appropriate Cabinet Member of the action taken.

### **LEGAL AND INFORMATION MANAGEMENT**

To set policy and strategic direction for:

- Legal services provided and used by the Council;
- Electoral services, land charges and coronial services;
- Data protection, GDPR, Freedom of Information, related Environmental Regulations and Subject Access requests.

### **INFORMATION TECHNOLOGY**

To set policy and strategic direction for:

- The infrastructure for the Council's Information and telecommunications systems;
- Cyber security;
- Architecture and data.

## **CENSUS**

To coordinate and oversee the Council's response regarding the national Census, including any matters arising from the Census results together with the Deputy Leader and Cabinet Member for Communities, Children and Public Protection.

## **CUSTOMER SERVICES AND DIGITAL** *(delegation made on a temporary basis while the Cabinet Member for Resident Participation, Consultation Reform and Leisure is on Maternity Leave)*

To set policy and strategic direction for:

- The corporate contact centre;
- Corporate Complaints;
- The digital transformation of the Council's services in collaboration with other Cabinet Members and partner agencies where necessary;
- Applications, core digital tools and platforms which enable public engagement with the Council e.g. the website, ReportIt and other such functions

## **CABINET MEMBER FOR CITY MANAGEMENT AND AIR QUALITY**

### **COMMUNICATIONS**

To oversee the development and delivery of any strategic plans of the Communications team within the Innovation and Change directorate.

To oversee all Corporate Communications in consultation with the Leader of the Council.

### **PUBLIC REALM**

To set policy and strategic direction for individual public realm projects, in consultation with the Cabinet Member for Planning and Economic Development or any other appropriate Cabinet Members. Public Realm projects are those that significantly change the design of public realm in the City; these are distinct from any place shaping projects which will require a 'place plan' and/or consider a wider range of cross cutting outcomes, and are the sole responsibility of the Cabinet Member for Planning and Economic Delivery. This includes taking responsibility for the Executive's role in overseeing the Public Realm Capital Works Programme.

To set policy and strategic direction for:

- All matters relating to the Parliamentary Estate including Parliament Square;
- The annual maintenance programmes that are carried out on our footways, carriageways and public lighting.

### **AIR QUALITY AND FLOODING**

To set policy and strategic direction for:

- The Council's Air Quality Action Plan, in consultation with the Cabinet Member for Climate, Ecology and Culture.
- The Schools Clean Air Fund, in consultation with the Cabinet Member for Communities, Children and Public Protection;
- Flood planning and management (lead local flood authority responsibilities), in consultation with the Cabinet Member for Planning and Economic Development.

### **CEMETRIES AND PUBLIC MORTUARIES**

To set policy and strategic direction for:

- Cemeteries managed by the Council;
- The public Mortuary service
- The London Mortuary Management programme, on behalf of all London Local Authorities, in consultation with the Leader of the Council who has responsibility for emergency planning.

### **STREET CLEANSING, WASTE AND PUBLIC CONVENIENCES**

To set policy and strategic direction for:

- Street cleansing, including major cleansing contracts

- Public conveniences.
- Waste collection and disposal, including bulky refuse.
- Support to residents, businesses, and visitors to reduce waste production and increase recycling in consultation with the Cabinet Member for Climate, Ecology and Culture;
- Commercial waste consolidation as part of a wider sustainable transport approach in consultation with the Cabinet Member for Climate, Ecology and Culture.

## **CITY INSPECTORS**

To set policy and strategic direction for the deployment of City Inspectors for all non-regulatory enforcement activities (illegal dumping of waste, littering and other street based anti-social behaviour issues); where this relates to licensing or other regulatory issues this should be in consultation with the Cabinet Member for Communities, Children and Public Protection.

## **HIGHWAYS, TRANSPORT AND PARKING**

To set policy and strategic direction for:

- The Council's functions under the statutory powers within Highways Acts including (but not limited to) the Highways Act 1980 and the Traffic Management Act 2004.
- Planned roads and highway maintenance including footway and carriage works, public lighting, bridges and other structures and surface water drainage as well as the transportation works budget and other related and capital projects.
- Transport projects and the management of all transport schemes including major transport initiatives;
- Local road safety schemes and school/play streets;
- The Local Implementation Plan;
- Relationships with Transport for London (TfL);
- Relationships with utilities in Westminster, including the operation of the utilities permit scheme;
- Highways planning.
- Parking policy, including responsibility for the development and maintenance of parking on the City's housing estates in consultation with the Cabinet Member for Housing Services;
- Parking enforcement, including on housing estates in consultation with the Cabinet Member for Housing Services;
- Sustainable and active travel;
- Road safety functions, including pedestrian safety and school crossing patrols.

## **MAYORALTY AND CEREMONIAL MATTERS**

To set policy and strategic direction for all ceremonial and Lord Mayoral matters.

## **CABINET MEMBER FOR HOUSING SERVICES**

### **HOUSING ALLOCATIONS, ROUGH SLEEPING ACCOMMODATION AND HOMELESSNESS SERVICES**

To set policy and strategic direction for the Council services which:

- Prevent homelessness
- Allocate, transfer, exchange and arrange inheritance of Council owned housing
- Provide homeless accommodation (including temporary accommodation and hostels)
- Support rough sleepers off the streets

### **SOCIAL HOUSING MANAGEMENT MATTERS**

To set policy and strategic direction for the management and maintenance of the Council's housing stock and HRA land, including:

- Repairs and maintenance
- Major works
- Energy conservation
- Setting rents for social housing
- Setting service charges for leaseholders
- Social and community facilities on housing estates
- Anti-social behaviour and CCTV
- Asset management of HRA land
- Pimlico District Heating Undertaking (PDHU)
- Sheltered and Special Needs housing.

### **HOUSING PARTNERSHIPS**

To lead the Council's partnerships with key local stakeholders involved in housing management, most notably lessees' and tenants' resident's associations and Registered Providers.

## **CABINET MEMBER FOR REGENERATION AND RENTERS**

### **PRIVATE RENTED SECTOR**

To set policy and strategic direction for:

- The Private Rented Sector Strategy;
- The regulation of the Private Rented Sector (including houses in multiple occupation);
- Action to tackle issues associated with short-term letting.

### **REGENERATION**

To set policy and strategic direction for:

- Housing-led regeneration programmes, including liaison with other Cabinet Members where regeneration programmes overlap with other areas of responsibility.
- The provision by the Council of new housing within the City by way of new construction and conversion of existing buildings.
- The acquisition of properties by Compulsory Purchase for housing purposes.
- The clearance, general improvement and housing action areas and the implementation of proposals for the acquisition, improvement and/or conversion of properties in such areas.
- The allocation for the Affordable Housing Fund provisions made in accordance with S106 of the Town and Country Planning Act 1990, in consultation with the Cabinet Member for Housing Services, Cabinet Member for Planning and Economic Development and Cabinet Member for Finance and Council Reform.

## **CABINET MEMBER FOR CLIMATE, ECOLOGY AND CULTURE**

### **CLIMATE ACTION AND ECOLOGY**

To set policy and strategic direction for:

- The City Council's response to the Climate Emergency;
- The Council's role and response to cross-cutting sustainability issues, such as reducing carbon emissions, improving resource efficiency and developing sustainable energy. This includes use of the Carbon Offset Fund.
- The City Council's response to the Ecological Emergency
- City-greening initiatives such as hanging baskets, tree planting and maintenance;
- Biodiversity including, the protection of important habitats and species; the protection of existing green assets and, in consultation with the Cabinet Member for Planning and Economic Development, the creation of new green infrastructure.

### **PARKS AND OPEN SPACES**

To set policy and strategic direction for parks and open spaces.

### **LIBRARIES, ARCHIVES AND REGISTRATION SERVICES**

To set policy and strategic direction for:

- The Council's functions under the Public Libraries Act, including the public library service and facilities, including community and specialist libraries, specialist collections, home library service, schools' library service;
- The Council's functions under the Registration of Births, Deaths and Marriages Acts.
- Council's functions under the Public Records Act, and other legislation covering archives and records;
- Fees and charges for the libraries and archives services, and for non-statutory fees and charges in the registration service; and
- Registration, citizenship and ceremonies services in the Council's venues and other licensed venues.

### **CULTURE AND TOURISM**

To set policy and strategic direction for:

- The cultural offer across Westminster;
- Liaison with the cultural industries in the city;
- Public Arts (non-planning related decisions);
- Green Plaques and City of Sculpture; and
- Tourism matters related to the cultural offer in Westminster.
- The City Lions Programme

Where decisions impact on the performance of the tourism and culture sectors in Westminster, to act in consultation with the Cabinet Member for Planning and Economic Development.

**LEISURE** *(delegation made on a temporary basis while the Cabinet Member for Resident Participation, Consultation Reform and Leisure is on Maternity Leave)*

To set policy and strategic direction for:

- Sports and leisure services including leisure centres, active communities' initiatives and Sayers Croft Field Centre;



**CABINET MEMBER FOR RESIDENT PARTICIPATION, CONSULTATION REFORM AND LEISURE** *(currently on Maternity Leave – the delegations noted in green have been made by the Leader of the Council for the duration of the Maternity Leave)*

**CUSTOMER SERVICES AND DIGITAL** *(currently delegated to the Cabinet Member for Finance and Council Reform)*

To set policy and strategic direction for:

- The corporate contact centre;
- Corporate Complaints;
- The digital transformation of the Council's services in collaboration with other Cabinet Members and partner agencies where necessary;
- Applications, core digital tools and platforms which enable public engagement with the Council e.g. the website, ReportIt and other such functions.

**COMMUNITY ENGAGEMENT AND NEIGHBOURHOODS** *(currently delegated to the Cabinet Member for Communities, Children and Public Protection)*

To set policy and strategic direction for:

- The Council's Community Engagement Strategy, including raising the standard of consultation and engagement across the Council and widening participation;
- Liaison with Neighbourhood Forums (except on designation and plan adoption matters) and Amenity Societies, in consultation with relevant Cabinet Members as necessary, most notably the Cabinet Member for Planning and Economic Development;
- Westminster Together or similar public forums or engagement events;
- Relationships with the Queen's Park Community Council.

To support the Cabinet Member for Planning and Economic Development in setting policy and strategic direction for the North Paddington Programme.

**COMMUNITY INVESTMENT** *(currently delegated to the Cabinet Member for Adult Social Care, Public Health and Voluntary Sector)*

To set policy and strategic direction for:

- The Ward budget programme;
- Community investment programmes and grants;
- Community capacity building;

**EQUITY, EQUALITY, DIVERSITY AND INCLUSION** *(currently delegated to the Cabinet Member for Communities, Children and Public Protection)*

To set policy and strategic direction for:

- The Council's work to promote equity, equality, diversity and inclusion across all Council practices and workings with external providers.
- The Council's Equalities Policy and statutory obligations and the Equality Act 2010.

**LEISURE** *(currently delegated to the Cabinet Member for Climate, Ecology and Culture)*

To set policy and strategic direction for:

- Sports and leisure services including leisure centres, active communities' initiatives and Sayers Croft Field Centre;

## 7. LOCAL CHOICE FUNCTIONS

**THE LOCAL AUTHORITIES (FUNCTIONS AND RESPONSIBILITIES) (ENGLAND)  
REGULATIONS 2000  
RESPONSIBILITY FOR FUNCTION <sup>1</sup>**

<b>FUNCTIONS Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1</b>	<b>EXECUTIVE (ie CABINET/COUNCIL)</b>	<b>COMMITTEE OR CABINET MEMBER RESPONSIBLE</b>
<u>London Local Authorities and Transport for London Act 2008</u>		
The Whole Act	Executive	Relevant Cabinet Members
<u>London Local Authorities Act 2007</u>		
Part 2, Sections 4 to 31	Executive	Relevant Cabinet Member
Section 32	Non-Executive	Planning Applications Committee
Part 3, Section 37	Executive	Relevant Cabinet Member
Remainder of Part 3	Non-Executive	Licensing Committee
Part 4	Executive	Relevant Cabinet Member
Part 5, Sections 70, 72 and 75	Non-Executive	Licensing Committee
Section 71	Non-Executive	Licensing Committee
Sections 73-4, 76-78	Executive	Relevant Cabinet Member
Part 6	Executive	Relevant Cabinet Member
<u>London Local Authorities Act 2004</u>		
Parts 2, 3, 4 and 6	Executive	Relevant Cabinet Member
<u>London Local Authorities and Transport for London 2003</u>		

<sup>1</sup> The relevant Executive Directors hold the officer level authority across each of these areas according to the Scheme of Delegation set out elsewhere in this Constitution.

The Whole Act	Executive	Relevant Cabinet Member
<u>London Local Authorities Act 2000</u>		
Service of penalty charge notice on basis of information provided by camera etc (Section 4)	Cabinet	Relevant Cabinet Member
Service of penalty charge notice where parking attendant prevented from issuing a notice (Section 5)	Cabinet	Relevant Cabinet Member
Cleansing relevant land of refuse and litter (Section 19)	Cabinet	Relevant Cabinet Member
Licensing – see references to different licensing functions referred to below	Council	Licensing Committee
Licensing of Buskers (Part V)	Council	Licensing Committee
<u>City of Westminster Act 1999</u>		
The Whole Act	Non-Executive	Licensing Committee
<u>London Local Authorities Act 1996</u>		
Penalty Charge Notices in respect of Bus Lane infringements (Section 4)	Cabinet	Relevant Cabinet Member
<u>Fire Safety and Entertainment Licensing</u>		
Approval of policies in respect of Entertainment licenses	Cabinet	Relevant Cabinet Member
Register of all licensed premises for public entertainment	Council	Licensing Committee
<u>City of Westminster Act 1996</u>		
Service of Closure Notices and Closure Orders	Council	Licensing Committee

<u>London Local Authorities Act 1995</u>		
Making of special temporary prohibitions within a special parking area (Section 9)	Cabinet	Relevant Cabinet Member:
Notice requiring removal of unauthorised advertisement hoardings etc (Section 11)	Council	Planning Applications Committee
Notice requiring removal of signs on buildings (Section 12)	Council	Planning Applications
Appointment of deputies to the Fire Authority (Section 44)	Council	General Purposes Committee
<u>London Local Authorities Act 1994</u>		
Consent of distribution of free literature (Section 4)	Council	Licensing Committee
Street trading	Council	Licensing Committee
- Regulation of street trading and associated issues	Cabinet	Relevant Cabinet Member
- Renewal of licenses	Council	Licensing Committee
Making of regulations relating to dangerous structure fees (Section 8)	Council	
To grant unopposed renewals, transfers and variations for special treatment licenses.	Council	
<u>London Local Authorities Act 1991</u>		
Removal of distribution containers on the highway (Section 22)	Council	General Purposes Committee
<u>Licensing of Special Treatment Premises (Part II)</u>		

Approval of policies in respect of special treatment licenses	Cabinet	Relevant Cabinet Member
Hearing of and determination of applications made to the Council in respect of special treatment licenses	Council	Licensing Committee
Licensing of premises or persons in respect of special treatment establishments	Council	Licensing Committee
To grant unopposed renewals, transfers and variations for special treatment licences	Council	Licensing Committee
<u>London Local Authorities (No 2) Act 1990</u>	Council	
Crime prevention measures (Section 5)	Cabinet	Relevant Cabinet Member
Crime prevention policies	Cabinet	Relevant Cabinet Member
Restoration of gas and water and electricity	Cabinet	Relevant Cabinet Member
<u>London Local Authorities Act 1990</u>		
Removal of shopping or luggage trolleys found in the open air (Section 43)	Cabinet	Relevant Cabinet Member
<u>Street Trading</u>		
- Regulation of street trading and market trading together with the provision, maintenance and management of storage accommodation.	Cabinet	Relevant Cabinet Members
- Policies etc (see above)		
- Renewal of licenses etc.	Council	Licensing Committee
<u>Greater London Council (General Powers) Act 1984</u>		

Registration of sleeping accommodation (Part IV)	Council	Planning Applications Committee
Provisions relating to the sale of goods by competitive bidding (Part VI) these provisions include the registration of premises or stalls.	Council	General Purposes Committee
Power to make charge in respect of approval of plans etc relating to drains (Section 36)	Council	General Purposes Committee
Removal of occupants of buildings in vicinity of dangerous structures etc (Section 38)	Council	General Purposes Committee
<u>Greater London Council (General Powers) Act 1982</u>		
Determination of charges for London Building Acts, Consents etc (Section 3)	Cabinet	Relevant Cabinet Member
<u>Greater London Council (General Powers) Act 1981</u>		
Provisions relating to control by Borough Council of overcrowding in certain hostels – this includes the ability of the Council to serve notices (Part IV)	Council	General Purposes Committee
<u>Greater London Council (General Powers) Act 1979</u>		
Control of Browntail moth (Section 8)	Cabinet	Relevant Cabinet Member
Licensing of entertainment booking offices (Section 5)	Council	Licensing Committee
<u>Greater London Council (General Powers) Act 1976</u>		
		Relevant Cabinet Member

Power to extinguish rights of internment in cemeteries (Section 9) <u>Greater London Council (General Powers) Act 1975</u>	Cabinet	General Purposes Committee
Power to establish foreign loans reserve fund	Council	
<u>Greater London Council (General Powers) Act 1974</u>		
Prohibition of person entering upon grass verges (Section 14 (2))	Cabinet	Relevant Cabinet Member
Authorisation of parking on verges (Section 15 (4))	Cabinet	Relevant Cabinet Member
Removal of vehicles for street cleansing (Section 21)	Cabinet	Relevant Cabinet Member
<u>Greater London Council (General Powers) Act 1973</u>		General Purposes Committee
Closure of insanitary food premises and stalls – the Council may seek an order from the court for the closure of premises (Section 30)	Council	
<u>Greater London Council (General Powers) Act 1972</u>		Relevant Cabinet Member
Contributions in respect of railings (Section 18)	Cabinet	Relevant Cabinet Member
Restoration of gas and electricity services (Section 19)	Cabinet	
<u>Greater London Council (General Powers) Act 1969</u>		General Purposes Committee
Walkways – There are various provisions in this Act, including the provision and declaration of walkways under Section 11 (Part III)	Council	



<u>Greater London Council (General Powers) Act 1966</u>		
Licensing of public exhibitions etc (Section 21)	Council	Licensing Committee
<u>London County Council (General Powers) Act 1963</u>		
Boundary Walls (Section 6)	Cabinet	Relevant Cabinet Member
Acquisition of easements etc (Section 8)	Cabinet	Relevant Cabinet Member
Underpinning of houses near a street improvement (Section 9)	Cabinet	Relevant Cabinet Member
Approval of trade refuse disposal facilities (Section 11)	Cabinet	Relevant Cabinet Member
Provision of shops etc in subways (Section 14)	Cabinet	Relevant Cabinet Member
Power to provide illumination, floodlighting etc (Section 17)	Cabinet	
<u>London County Council (General Powers) Act 1962</u>		Relevant Cabinet Member
Service of Notices for prevention of flooding etc (Section 17)	Cabinet	
<u>London County Council (General Powers) Act 1960</u>		
Restriction of Vehicular access to and from street improvements (Council may make application to Minister) (Section 13)	Cabinet	Relevant Cabinet Member
<u>London County Council (General Powers) Act 1957</u>		
	Cabinet	Relevant Cabinet Member

Provision of advances for erection etc of buildings (Section 78)	Cabinet	Relevant Cabinet Member
Removal of bottles from streets (Section 81)		General Purposes Committee
<u>London County Council (General Powers) Act 1956</u>	Council	
Bye-laws as to artificial lighting of common staircases (Section 63)		Relevant Cabinet Member
<u>London County Council (General Powers) Act 1955</u>	Cabinet	Relevant Cabinet Member
Powers of Borough Councils to maintain burial grounds (Section 36)	Cabinet	Relevant Cabinet Member
Return of library books etc (Section 37)	Cabinet	
Recovery by Borough Councils of expenses of fencing certain lands (Section 39)		
<u>London County Council (General Powers) Act 1954</u>		
Defacement of streets with slogans etc (Powers of removal) (Section 20)	Cabinet	Relevant Cabinet Member
<u>London County Council (General Powers) Act 1953</u>		
Powers to sanitary authority to cleanse aged and feeble persons in their homes (Section 43)	Cabinet	Relevant Cabinet Member

<p><u>London County Council (General Powers) Act 1951</u></p> <p>Expenses of Councils in connection with ceremonies etc (Section 32)</p> <p>Improvement of roadside amenities etc by Borough Councils (Section 3)</p> <p>Power to provide storage etc for accommodation for costermongers etc (Section 35)</p>	<p>Cabinet</p> <p>Cabinet</p> <p>Cabinet</p>	<p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member</p>
<p><u>London County Council (General Powers) Act 1948</u></p> <p>Maintenance of forecourts to which public have access – Council has power to serve Improvement Notices (Section 43)</p> <p>Fencing of dangerous lands in or near streets (Section 44)</p>	<p>Cabinet</p> <p>Cabinet</p>	<p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member City Management and Communities</p>
<p>Recovery of expenses and costs (Section 44)</p> <p><u>London County Council (General Powers) Act 1947</u></p> <p>Power to provide concert halls etc (Section 4)</p> <p>Power to provide entertainment (Section 5)</p>	<p>Cabinet</p> <p>Cabinet</p> <p>Cabinet</p> <p>Cabinet</p>	<p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member</p> <p>Relevant Cabinet Member</p>

<p>Acquisition of buildings or places of historic interest (Section 61)</p> <p><u>London County Council (General Powers) Act 1933</u></p> <p>Control of Petroleum – filling stations (Section 69)</p> <p><u>London County Council (General Powers) Act 1930</u></p> <p>Gratuities to non-pensionable employees (Section 61)</p> <p><u>Westminster City Council (General Powers) Act 1925</u></p> <p>Power to provide residences for officers or servants (Section 11 (1))</p> <p><u>London County Council (General Powers) Act 1925</u></p> <p>Enclosure of unenclosed land adjoining streets (Section 33)</p>	<p>Cabinet</p> <p>Council</p> <p>Council</p> <p>Cabinet</p>	<p>Relevant Cabinet Member</p> <p>General Purposes Committee</p> <p>General Purposes Committee</p> <p>Relevant Cabinet Member</p>
<p><u>London County Council (General Powers) Act 1921</u></p> <p>Compensation to persons in Council service on abolition of office (Section 31)</p> <p><u>London County Council (General Powers) Act 1912</u></p> <p>Petroleum oil depots (Part II)</p> <p><u>Westminster City Council (Superannuation and Pensions) Act 1909</u></p> <p>Power to contribute to provident fund (Section 28)</p> <p>The determination of an appeal against any decision made by or on behalf of the Authority</p>	<p>Cabinet</p> <p>Cabinet</p> <p>Council</p>	<p>Relevant Cabinet Member /Superannuation</p> <p>Relevant Cabinet Member</p> <p>Superannuation Committee</p> <p>Relevant Cabinet Member</p>

<u>Introductory Tenancy Panel</u> (No member involvement)	Cabinet	Relevant Cabinet Member
<u>Housing Grants Panel:</u> <u>Delegated powers</u>	Cabinet	Relevant Cabinet Member
<u>Housing Act 1996 Tier of Appeal for Introductory Tenants:</u> No member involvement	Cabinet	
The appointment of review boards under regulations under sub-section (4) of Section 34 (determination of claims and reviews) of the Social Security Act 1998 (a)	Council	General Purposes Committee
The making of arrangements pursuant to sub-section (1) of Section 67 of, and Schedule 18 to, the 1998 Act (appeals against the exclusion of pupils)	Council	General Purposes Committee
The making of arrangements pursuant to Section 94 (1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals)	Council	General Purposes Committee
The making of arrangements pursuant to Section 95 (2) of, and Schedule 25 to, the 1998 Act (children to whom Section 87 applies: appeals by governing bodies)	Council	Relevant Cabinet Member
<u>Any function relating to contaminated land</u>		
- Identification of contaminated land	Cabinet	Relevant Cabinet Member
- Designation of "special sites" where it appears that land might be contaminated	Cabinet	Relevant Cabinet Member
- Duty of enforcing authority (could be Local Authorities) to require	Cabinet	

remediation of a contaminated land site		
- Local Authority may need to determine who is the appropriate person to bear responsibility for remediation.	Cabinet	Relevant Cabinet Member
- Duty on enforcing authority (could be the Local Authorities) to use its reasonable endeavours to consult before service of a notice.	Cabinet	Relevant Cabinet Member
- Preparation of a Remediation statement	Cabinet	Relevant Cabinet Member
- Service of a Remediation notice	Cabinet	Relevant Cabinet Member
- Power to carry out remediation in default	Cabinet	Relevant Cabinet Member
- Entitlement to recover costs of works in default – service of a charging notice	Cabinet	Relevant Cabinet Member
- Respond to appeals against charging notices	Cabinet	Relevant Cabinet Member
- Maintain a register of Remediation notices	Cabinet	Relevant Cabinet Member
- Duty to supply appropriate Agency with information necessary to prepare a report on state of contaminated land in England and Wales	Cabinet	Relevant Cabinet Member
- Local Authorities may act in a case where land outside its area if significant harm is likely	Cabinet	
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	Relevant Cabinet Member

The service of an Abatement Notice in respect of a statutory nuisance	Cabinet	Relevant Cabinet Member
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Cabinet	Relevant Cabinet Member
The inspection of an authority's area to detect any statutory nuisance	Cabinet	Relevant Cabinet Member
The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	Planning Applications Committee
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Council	General Purposes Committee
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Council	Relevant Cabinet Member
The making of agreements for the execution of highways works	Cabinet	
<p>The appointment of any individual:</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than:</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p>	Council	General Purposes Committee

<p>(c) to any committee or sub-committee of such a body, and the revocation of any such appointment</p> <p>The making of agreements with other local authorities for the placing of staff at the disposal of those authorities</p>	<p>Cabinet</p>	<p>The Cabinet Member responsible for the staff or service in question</p>
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## **8. JOINT ARRANGEMENTS**

### **8.1. 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:

- i. enter into arrangements or agreements with any person or body;
- ii. co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- iii. exercise on behalf of that person or body any functions of that person or body.

### **8.2. JOINT ARRANGEMENTS**

The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions 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.

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.

Except as set out below, and as provided in the Local Authorities (Arrangements for the Discharge of Functions)(England)(Amendment) Regulations 2001, the executive may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

The executive may appoint members to a joint committee from outside the executive in the following circumstances:

- i. the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for an ward which is wholly or partly contained within the area;
- ii. If a joint committee discharging executive functions relates to 5 or more authorities or is statutory, the executive can appoint executive or non-executive members.

In this case the political balance requirements do not apply to such appointments.

The Council has established joint arrangements in respect of the following:

- i. The London Councils Grants Committee
- The London Councils Transport and Environment Committee
- ii. The London Councils – Leaders Committee
  - iii. The North West London Joint Health Overview and Scrutiny Committee
  - iv. Inner West London Mental Health Services Reconfiguration Joint Health Overview and Scrutiny Committee

### **8.3. ACCESS TO INFORMATION**

The Access to Information Rules in Chapter 8 of this Constitution apply.

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.

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.

### **8.4. DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES**

The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **8.5. 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.

# **CHAPTER 4 – POLICY AND** **SCRUTINY**

1. INTRODUCTION TO THE POLICY AND SCRUTINY PROCESS AND THE COMMITTEES
2. POLICY AND SCRUTINY PROCEDURE RULES INCLUDING COUNCILLOR CALL FOR ACTION
3. POLICY AND SCRUTINY COMMITTEE TERMS OF REFERENCE

# 1. INTRODUCTION TO THE POLICY AND SCRUTINY PROCESS AND THE COMMITTEES

## 1.1. SCRUTINY AT WESTMINSTER – VISION AND PURPOSE

Scrutiny is a vital function to promote transparency and accountability. On behalf of Westminster’s communities and stakeholders, local non-Executive Councillors will endeavour to ensure services in the city not only meet people’s needs but enhance lived experiences by:

- i. Championing the best possible outcomes for communities and stakeholders.
- ii. Holding the Council, its partner organisations and external bodies to account for decisions taken and the impacts on our communities.
- iii. Examining Council priorities, actively engaging in policy development and offering constructive challenge prior to decisions being taken.
- iv. Working strategically across the city to focus our efforts on policy and service areas where scrutiny can make the biggest impact.
- v. Demonstrating integrity and commitment by adhering to the Nolan Principles of Public Life.

## 1.2. SCOPE AND FUNCTIONS OF POLICY AND SCRUTINY COMMITTEES

The Council has appointed the Policy and Scrutiny Committees set out in the left-hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters broadly set out in the right-hand column of the same table. Detailed terms of reference for the Policy and Scrutiny Committees are set out separately in this Constitution.

COMMITTEE	SCOPE
<b>OVERVIEW AND SCRUTINY COMMITTEE</b>	To provide overall leadership to the Policy and Scrutiny function. To scrutinise cross-cutting or corporate areas of policy and/or service delivery and to approve the annual report of Policy and Scrutiny activity. Within this, to act as the statutory committee responsible for scrutinising decisions made to combat crime and disorder.
<b>CLIMATE ACTION, ENVIRONMENT AND HIGHWAYS POLICY AND SCRUTINY COMMITTEE</b>	To lead Policy and Scrutiny work relating to the work of the Council and others in the City to: <ul style="list-style-type: none"> <li>• Tackle the climate emergency</li> <li>• Keep the City clean</li> </ul>

	<ul style="list-style-type: none"> <li>• Provide sustainable transport options and green space</li> </ul>
<b>HOUSING AND REGENERATION POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the Council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Deliver exceptional housing services to tenants and lessees</li> <li>• Tackle rough sleeping</li> <li>• Build more affordable homes, including through regeneration and associated programmes</li> <li>• Build more homes</li> <li>• Regenerate places and areas of the City, including through place-shaping schemes</li> </ul>
<b>VULNERABLE ADULTS, HEALTH AND COMMUNITIES POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Safeguard and support vulnerable adults</li> <li>• Drive improvements in public health</li> <li>• Provide community safety services</li> <li>• Support the voluntary and community sector</li> <li>• Provide health services, including acting as the statutory committee responsible for health scrutiny</li> </ul>
<b>YOUNG PEOPLE, LEARNING AND EMPLOYMENT POLICY AND SCRUTINY COMMITTEE</b>	<p>To lead Policy and Scrutiny work relating to the work of the Council and others in the City to:</p> <ul style="list-style-type: none"> <li>• Safeguard children and young people</li> <li>• Provide education, learning and skills development services and opportunities both at school age and beyond</li> <li>• Provide support for people to find and sustain work</li> <li>• Provide library services</li> <li>• Provide leisure services</li> </ul>

In addition the Council may appoint joint committees and the terms of reference for these are included in section 3 of this chapter.

### **1.3. GENERAL ROLE**

Within their terms of reference, Policy and Scrutiny Committees may:

- i. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- ii. make reports and/or recommendations to the Full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;
- iii. consider any matter affecting the area or its inhabitants;
- iv. question and gather evidence from any person (with their consent);

- v. establish Sub-Committees or Task Groups in line with the provisions set out in Section 2 of this Chapter;
- vi. consider any Councillor Calls for Action referred by a Ward Member to the Committee; and
- vii. exercise the right to call-in for decisions made but not yet implemented by the Executive.

#### **1.4. SPECIFIC FUNCTIONS**

##### **(1) Policy development (“pre-decision scrutiny”).** Policy and Scrutiny Committees may:

- i. undertake ‘pre-decision scrutiny’ in areas which will assist the Council and the Executive in key areas of policy or service development – this should be with the agreement of the Executive but there may be a small number of extraordinary circumstances where such agreement is either not appropriate or possible;
- ii. investigate areas and issues of emerging concern in the City with a view to making recommendations to the Executive on how to respond to these;
- iii. conduct research, community and other engagement in the analysis of policy issues and possible options; and
- iv. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

##### **(2) Review (“post-decision scrutiny”).** Policy and Scrutiny committees may:

- i. review and scrutinise decisions made by the Executive and/or committees and Council officers, and the impact of these decisions, both in relation to individual decisions as well as the aggregated impact of multiple decisions;
- ii. take a strategic approach to reviewing organisational performance against policy objectives or in relation to particular decisions, initiatives or projects – operational and individual service performance management is the responsibility of the Audit and Performance Committee;
- iii. upon referral by the Audit and Performance Committee, undertake in-depth reviews into individual areas of service performance which are high risk, of significant public or reputational interest or otherwise warrant more detailed consideration to resolve issues; and
- iv. review and scrutinise the decisions and performance of other organisations operating in the City and invite reports from them by requesting them to address the Policy and Scrutiny Committee and local people about their activities and performance.

## **1.5. PROCEEDINGS OF POLICY AND SCRUTINY COMMITTEES**

Policy and Scrutiny Committees will conduct their proceedings in accordance with the Policy and Scrutiny Procedure Rules and, so far as relevant, the Committee and Sub-Committee Procedure Rules set out in Chapter 5 of this Constitution.



## **2. POLICY AND SCRUTINY PROCEDURE RULES INCLUDING COUNCILLOR CALL FOR ACTION**

### **2.1. POLICY AND SCRUTINY PROCEDURE RULES**

#### **2.1.1 What will be the number and arrangements for Policy and Scrutiny Committees?**

- (1) The Council will have the Policy and Scrutiny Committees set out in this Chapter. Such Committees may appoint **Sub-Committees** or Task Groups on **either a formal or informal basis**. Policy and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- (2) The Overview and Scrutiny Committee is responsible for overseeing and co-ordinating the activities of Policy and Scrutiny Committees generally and resolving any disputes between them.

#### **2.1.2 Who may sit on Policy and Scrutiny Committees?**

- (3) All Councillors except Members of the Cabinet may be Members of a Policy and Scrutiny Committee, **Sub-Committee** or a Task Group. However, no Member may be involved in scrutinising a decision in which they been directly involved.

#### **2.1.3 Education representatives**

- (1) Each relevant Policy and Scrutiny Committee or Task Group dealing with education matters shall include in its membership the following voting representatives:
  - (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 2 parent governor representatives.
- (2) A relevant Policy and Scrutiny Committee/Task Group in this paragraph is a Policy and Scrutiny Committee, Sub-Committee or Task Group of a local education authority, where the Committee or Task Group functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Policy and Scrutiny Committee/Task Group deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak with the permission of the Chair.
- (3) The Council has agreed to include additionally in the membership of the Policy and Scrutiny Committee with responsibility for education, two Headteachers of Westminster maintained schools as non-voting co-opted Members.

#### **2.1.4 Meetings of the Policy and Scrutiny Committees (including the Westminster Scrutiny Commission)**

- (1) Each Policy and Scrutiny Committee shall be responsible for deciding how many times it meets during the year. Extraordinary meetings may be called from time to time as and when appropriate. A Policy and Scrutiny Committee meeting may be called by the Chair of the relevant Policy and Scrutiny Committee in consultation with the Vice-Chair (if any) and the Opposition Party spokesperson on the Committee or by any three Members of the Committee or by the Proper Officer if they consider it necessary or appropriate.

#### **2.1.5 Quorum**

- (1) The quorum for a Policy and Scrutiny Committee shall be 3 voting Members of the Committee.

#### **2.1.6 Who Chairs Policy and Scrutiny Committee Meetings?**

- (1) Chairs of Policy and Scrutiny Committees will be drawn from among the Councillors sitting on the Committee, and subject to this requirement the Committee may appoint such a person as it considers appropriate as Chair. The Leader of the Council shall be entitled to nominate a member of the Committee as its Chair approval by the Committee/Sub-Committee.

#### **2.1.7 Work Programme**

- (1) The Policy and Scrutiny Committees/Task Groups will be responsible for implementing their own work programme and in doing so they shall take into account wishes of Members on that Committee who are not Members of the largest political group on the Council.
- (2) Each Policy and Scrutiny Committee shall undertake an annual work programming exercise with input from relevant Cabinet Members and senior officers to identify areas where scrutiny may be able to add most value and have most impact in the year ahead. Each Policy and Scrutiny Committee should then consider its work programme as a living document for regular review, including formally at each meeting of the Committee.
- (3) The Overview and Scrutiny Committee has responsibility for the allocation of tasks not included in a Committee's terms of reference to the most appropriate Policy and Scrutiny Committee. In the event of the allocation of the task being urgent and requiring allocation before the next meeting of the Overview and Scrutiny Committee, the Chief Executive shall allocate the task in consultation with the Chairs of all Policy and Scrutiny Committees.

#### **2.1.8 Rights of Members to request the inclusion of agenda items ("Councillor Call For Action")**

- (1) Having had regard to any guidance issued by the Secretary of State, any Member shall be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of the Committee or Sub-Committee to be

included on the agenda for the next available meeting of the Committee or Sub-Committee. On receipt of such a request the Proper Officer will inform the Chair of the relevant Policy and Scrutiny Committee or Sub-Committee and ensure that it is included on the agenda for discussion at the next practicable meeting.

- (2) The Chief Executive will not include any matters on the relevant agenda where they have been excluded by any Orders made by the Secretary of State.
- (3) Where the relevant Committee decides not to exercise any of its powers in relation to any request made under (1) above, it will notify the Member of their decision, and the reasons for it.
- (4) Where the relevant Committee makes a report or recommendations to the authority it shall provide a copy of the report or recommendations to the Member who referred the matter in question and any other responsible authorities and co-operating persons and bodies as it thinks appropriate.
- (5) The protocol for the use of the Councillor Call for Action is set out at section 2.2.

#### **2.1.9 Policy Review and Development**

- (1) The role of the Policy and Scrutiny 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 relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- (2) Policy and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **2.1.10 Reports from Policy and Scrutiny Committee**

- (1) Once it has formed recommendations on proposals for development or concluded a scrutiny, the Policy and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Cabinet or relevant Cabinet Member (if the recommendations are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendations would require a departure from or a change to the agreed budget and policy framework).

- (2) The Council, Cabinet or relevant Cabinet Member, as appropriate, shall consider the report of the Policy and Scrutiny Committee at the earliest practicable opportunity.

**2.1.11 Making sure that Policy and Scrutiny Reports are considered by the Executive**

- (1) In the event that a request from a Policy and Scrutiny Committee is not included on the agenda for a Cabinet or Cabinet Committee meeting or considered by the relevant Cabinet Member within 2 months of its submission to the Proper Officer, the Chair of the relevant Policy and Scrutiny Committee may require the report to be submitted to Full Council.

**2.1.12 Rights of Policy and Scrutiny Committee Members to Documents**

- (1) In addition to their rights as Councillors, Members of Policy and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in this Constitution.
- (2) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Policy and Scrutiny Committee as appropriate depending on the particular matter under consideration.

**2.1.13 Requirement for Members and Officers to attend and give account – (post-decision scrutiny)**

- (1) Any Policy and Scrutiny Committee, Sub-Committee or Task Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, i.e. Executive decisions and decisions of non-Executive committees.
- (2) The power to scrutinise non-Executive decisions should normally, in line with Government guidance, be exercised as part of wider policy reviews and Policy and Scrutiny Committees should not normally scrutinise individual decisions made by non-Executive committees, particularly decisions in respect of development control, licensing, registration, consents and other permissions.
- (3) As well as reviewing documentation, in fulfilling the scrutiny role, Policy and Scrutiny Committees may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
- i. any particular decision or series of decisions;
  - ii. the extent to which the actions taken implement Council policy; and/or
  - iii. service performance, subject to referral by the Audit and Performance Committee.

And it is the duty of those persons to attend if so required.

- (4) Where any Member or officer is required to attend a Policy and Scrutiny Committee under this provision, the Chair of that Committee will inform the

Proper Officer. The Proper Officer shall inform the Member or officer in writing giving at least 10 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (5) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Policy and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.
- (6) These provisions to require attendance are only to be used where necessary and, in most cases, more collegiate ways of working should generally be adopted whereby Cabinet Members and senior officers are invited to attend for particular discussions or to send a suitable alternative, but that their attendance is not mandated unless in exceptional circumstances.

#### **2.1.14 Attendance by Others**

- (1) A Policy and Scrutiny Committee may invite people other than those referred to 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.

#### **2.1.15 Task Groups**

- (1) Each Policy and Scrutiny Committee will have the ability to establish Task Groups to scrutinise issues within their terms of reference. The Constitution and terms of reference of any Task Group, shall be determined by the relevant Policy and Scrutiny Committee. It will be possible to establish single member scrutiny where appropriate but otherwise the Opposition Group will be entitled to a seat on all Task Groups but proportionality generally will not apply. Task groups which in the opinion of the relevant Committee Chair need to be established as a matter of urgency and therefore cannot wait until the next programmed meeting may be established by the Chair who must consult all Members of the Committee before doing so. The establishment of the Task Group shall be confirmed at the next meeting.
- (2) Task Groups will operate on an informal basis and will not be subject to the formal requirements relating to meetings in respect of the issue of agendas, minutes and notice of meetings etc. However, meetings will at the discretion of the Task Group usually, be open to members of the public except where the normal rules on confidentiality apply or there is a reasonable reason for a meeting taking place in private.

- (3) Every Task Group will report on a regular basis to the parent Committee in the case of a prolonged or ongoing scrutiny. In other cases a formal report should be submitted for consideration by the Parent Committee once the investigations have been completed.
- (4) It will be possible to establish joint Task Groups comprising Members from more than one Policy and Scrutiny Committee in order to deal with cross-cutting issues.
- (5) A Policy and Scrutiny Committee may hold a special meeting or establish a formal Sub-Committee to conduct a scrutiny or any other of its business should it consider this desirable.
- (6) Task Group membership shall be drawn from the parent Committee or, where circumstances dictate, any Policy and Scrutiny Members. Members who do not sit on a Policy and Scrutiny Committee may not sit on a Task Group.

#### **2.1.16 Call-in**

- (1) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. All the Members of the relevant<sup>1</sup> Policy and Scrutiny Committee(s) and all relevant Ward Members will be sent copies of the report, at the time of issue and a record of such decisions within the same timescale by electronic means by the person responsible for publishing the decision.
- (2) That notice will bear the date on which it is published and will (save where an exemption under 2.1.17 below applies) specify that the decision will come into force, and may then be implemented at 5pm on the 5<sup>th</sup> working day after the publication of the decision, unless (3) below applies. Where an exemption applies, the decision will come into force as soon as it is made.
- (3) During that period (if applicable), the Proper Officer shall call-in a decision for scrutiny by the relevant Committee if so requested by any 3 Members of the Committee entitled to vote on the subject matter of the decision and/or, in relation to a decision affecting a single Ward by all 3 Members of that ward and shall then notify the decision-taker of the call-in. They shall summon a meeting of the Committee on such date as they may determine, where possible after consultation with the Chair of the Committee, and in any case the meeting is to be held if possible within 10 working days of the decision to call-in or as soon as reasonably practicable thereafter as determined by the Proper Officer in consultation with the Committee Chair, where call-in is requested by all 3 Members of a Ward, those Members will be invited to the

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<sup>1</sup> As determined by the Monitoring Officer and Statutory Scrutiny Officer in cases of doubt

relevant meeting. In circumstances where 1 of the Ward Members is the decision taker or otherwise unable to act, the Ward call-in can be activated by the remaining 2 Ward Members. If at any time after the call-in has been triggered but prior to the Committee meeting taking place, 1 of the 3 Members withdraws their call-in request and therefore only 2 or 1 Members remain requesting the call-in, no further action in relation to the call-in shall take place. Members requesting the call-in shall be required to give reasons why they believe the decision not to be sound in order to assist the decision maker in preparing for the response.

- (4) If, having considered the decision, the Policy and Scrutiny Committee is, by majority vote, still concerned about the decision, then it may refer the decision back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or, if in the opinion of the Chief Executive the matter is contrary to the budget and policy framework, refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further 10 working days, or as soon as possible thereafter, amending the decision or not, adopting a final decision.
- (5) If following an objection to the decision, the Policy and Scrutiny Committee does not meet in the period set out in paragraph (3) above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Policy and Scrutiny meeting, or the expiry of that further 5 working day period, whichever is the earlier.
- (6) If the matter is referred to the Full Council, the Proper Officer shall include it on the agenda of the next possible meeting. If the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request or as soon as practicable. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request or as soon as possible thereafter as determined by the Proper Officer in consultation with the Leader.
- (7) If the Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

#### **2.1.17 Exception to call-in**

- (1) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- (i) only key decisions are subject to call-in. The Proper Officer may apply the call-in provisions in cases of doubt as to whether a decision is key or not;
- (ii) the decision shall be referred back to the decision maker or to Full Council only where a majority of the Members of [ana](#) Policy and Scrutiny Committee are in agreement;
- (iii) the call in procedure may not be used where the decision is in accordance with the recommendations of the relevant Policy and Scrutiny Committee.
- (iv) in the case of Ward Member call-in (referred to in (3) above), a maximum of four such call-ins a year per Ward will be permitted.
- (v) Executive decisions made under joint arrangements with other Local Authorities shall not be capable of being called-in.

### **2.1.18 Call-in and Urgency**

- (1) The call-in procedure set out above shall not apply where the decision being taken is urgent under the provisions set out in Chapter 8 on this Constitution. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chief Executive, in consultation with the Chair(s) of the relevant Policy and Scrutiny Committee(s), must agree to the decision proposed being treated as a matter of urgency. In the absence of the Chief Executive, the Deputy Chief Executive or the Monitoring Officer shall be able to provide such consent, or in their absence a Deputy Monitoring Officer. Decisions taken as a matter of urgency must be reported to the Overview and Scrutiny Committee, together with the reasons for urgency, on an annual basis.
- (2) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Overview and Scrutiny Committee with proposals for review if necessary.

### **2.1.19 Procedure at Policy and Scrutiny Committee Meetings**

- (1) Policy and Scrutiny Committees and Sub-Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the Committee for a decision in relation to a call in of a decision;



- (iv) responses of the Cabinet or Cabinet Members to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting in accordance with the work programme and as agreed by the Chair.
- (2) Where the Policy and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (3) Following any investigation or review, the Committee/Sub-Committee shall prepare a report for submission to the Cabinet, Cabinet Member, Committee or Full Council as appropriate and shall make its report and findings public save where this would involve the disclosure of exempt or confidential information within the meaning of the Local Government Act 1972.

#### **2.1.20 Matters within the Remit of More than One Policy and Scrutiny Committee**

- (1) Where a Policy and Scrutiny Committee wishes to conduct a review or scrutinise a matter which also falls (whether in whole or in part) within the remit of another Policy and Scrutiny Committee, then the Committee conducting the review shall invite the Chair of the other Committee (or their nominee) to attend its meetings when the matter is being reviewed.
- (2) Where a matter for consideration by a Policy and Scrutiny Committee/Task Group also falls within the remit of one or more other Policy and Scrutiny/Task Group, the decision as to which Policy and Scrutiny/Task Group will consider it will be resolved by the Overview and Scrutiny Committee.

#### **2.1.21 Suspension of Procedural Requirements**

- (1) A procedural requirement of these rules may be suspended to the extent that the Monitoring Officer advises is strictly necessary to meet a legal requirement.

## **2.2. COUNCILLOR CALL FOR ACTION PROTOCOL**

### **2.2.1 Overview**

- (1) The “Councillor Call for Action” (CCfA) was introduced by Section 119 of the Local Government and Public Involvement in Health Act 2007 which inserted Section 21A(1)(c) into the Local Government Act 2000.
- (2) Section 21A (1) (c) enables any member of the Council to refer to the relevant Policy and Scrutiny Committee any local government matter which is relevant to the functions of the Committee.
- (3) In addition, the amended Section 19 of the Police and Justice Act 2006 came into force on 30 April 2009. This enables any Member of the Council to refer to their Crime and Disorder Committee any local crime and disorder matter which affects their Ward.
- (4) Any Councillor can refer a local government matter even if they have not been asked by a member of the public to consider the matter.

### **2.2.2 Limitations**

- (1) It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, try to overcome them.

### **2.2.3 Issues excluded from referral as a CCfA**

- (1) The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:
  - (i) any matter relating to a planning decision or pending application;
  - (ii) any matter relating to a licensing decision or pending application;
  - (iii) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
  - (iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.
- (2) A matter will not be excluded under (a) – (c) where the allegation consists of the function not being discharged at all or that its discharge has failed or is failing on a systematic basis.

#### **2.2.4 Steps to be taken prior to making a Councillor Call for Action referral**

- (1) Prior to a Councillor referring a matter as a CCfA to a Policy and Scrutiny Committee, that Councillor should have tried to resolve the matter themselves using all mechanisms available to them.

#### **2.2.5 How to make a Councillor Call for Action referral**

- (1) If the matter cannot be resolved, then the Councillor can refer it to a Policy and Scrutiny Committee as a "Councillor Call for Action". To do this the Councillor should complete the CCfA form available from the Governance and Councillor Liaison Team and return it to the Chief Executive. The form requires the following details:

- The name of the Councillor and Ward they represent.
- The title of the CCfA and date of submission.
- Why you think the issue should be looked at and by which Policy and Scrutiny Committee.
- A brief synopsis of what the main areas of concern are.
- What evidence you have in support of your CCfA.
- Which, if any, areas or community groups are affected by the CCfA.
- What you have done to try and resolve the issue prior to requesting a CCfA.
- Is the CCfA currently the subject of legal action by any party (to your knowledge) or being examined by a formal complaints process?
- Are there any deadlines associated with the CCfA of which the Policy and Scrutiny Committee needs to be aware.
- Whether there are any other issues which may be of use to the Policy and Scrutiny Committee.

- (2) The Chief Executive will assess the matter to ensure that it is not excluded from referral to the Policy and Scrutiny Committee by virtue of any orders made by the Secretary of State. Only the Chief Executive in consultation with the Chair of the relevant Policy and Scrutiny Committee, can take the decision that the matter is an excluded matter.

- (3) If the matter is not an excluded matter, the Chief Executive will inform the Chair of the relevant Policy and Scrutiny Committee that the item will be included on the next Committee agenda. It is then up to the Members of the Committee to decide whether or not to exercise any of its powers under section 21 (2) of the Local Government Act 2000 in relation to that matter.

#### **2.2.6 Decision of the Committee whether to take the matter further**

- (1) When the Committee is considering whether or not it will exercise any of its powers in relation to the CCfA request (i.e. to undertake further, in-depth investigation), it will have regard to any representations made by the Councillor (making the CCfA request) as to why the Committee should exercise its powers.

- (2) The Councillor who submitted the CCfA request can either present their CCfA request without supporting papers (save for their CCfA request form), or prepare a report setting out their views.
- (3) The criteria the Committee will use to decide whether or not to exercise any of its powers in relation to the CCfA request will include:
- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Councillor submitting the request? And do the responses received by that Councillor demonstrate that the matter is not being progressed?
  - Has the Committee considered a similar issue recently – if yes, have the circumstances or evidence changed?
  - Is there a similar or related issue which is the subject of a review on the current work plan?
  - Relevant time pressures on resolving the CCfA should be taken into account.
  - Have all relevant service areas or partner organisations been informed and given enough time to resolve the issue? What response has the Councillor received?
  - Is this a case that is being or should be pursued via the Council's complaints procedure?
  - Is the issue part of an issue of genuine local concern which could have an impact on the local community?
  - And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's Ward?
- (4) When considering a CCfA request, the Policy and Scrutiny Committee may invite the relevant Head of Service and/or an external organisation to discuss the issue with the Committee and answer any questions.
- (5) If the Committee decides not to accept the CCfA referral it will inform the Councillor (if that Councillor is not a member of the relevant Committee or Sub-Committee) and provide reasons.
- (6) If the Committee decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme and inform the Councillor of the action to be taken.

### **2.2.7 Potential Outcomes**

- (1) There are a number of potential outcomes following the consideration of the issue:
- The Committee could determine not to make a report or recommendations and will notify the Councillor (if that Councillor is not a Member of the relevant Committee or Sub-Committee) in writing;

- The Committee could determine that it is an issue that requires further investigation and will commission a scrutiny review of the issue;
  - The Committee could write a report and make recommendations on the CCfA to the Council, the Cabinet, relevant Cabinet Members, Committee or Chief Officers.
- (2) Once the Committee has completed its work on the CCfA referral the Member who made the CCfA request will receive a copy of the report or recommendations made. The report will also be made available on the Council's website.

### **2.2.8 Timescales**

- (1) Once a CCfA request has been assessed as not being an excluded matter, the item will be included on the next Committee agenda.
- (2) Should a CCfA request result in recommendations to Full Council or Cabinet an item will be placed on the agenda for the next ordinary meeting.
- (3) Should a CCfA request result in recommendations to partner organisations, such organisations will be invited to make a response to the recommendations.

## **2.3. SCRUTINY-CABINET PROTOCOL**

Recommended as good practice, this Scrutiny-Cabinet protocol sets out practical expectations for how Cabinet Members and Scrutiny Members interact with one another.

The protocol aims to contribute positively to delivery of the vision of scrutiny at Westminster and complement the existing rules and procedures set out elsewhere in the Constitution.

### **2.3.1 Work Programming**

- (1) Work programmes should be aligned to Council priorities, with a balance of pre-scrutiny and post-implementation scrutiny. Though work programmes are owned by Policy and Scrutiny Committees, Cabinet Members should have the opportunity to assist in the development of programmes by identifying opportunities for scrutiny to have impact, whilst respecting the independence of scrutiny.
- (2) Cabinet Members should also provide an annual update to Policy and Scrutiny Members on their policy priorities for the year ahead to aid scrutiny planning.
- (3) Senior officers play a role in advising both Cabinet and Scrutiny on how to maximise the impact of, and benefit from, scrutiny in the development of work programmes.

### **2.3.2 Policy Development**

- (1) Cabinet and senior officers should draw attention to major forthcoming decisions and engage with Policy and Scrutiny Committees early in the policy development process to enable meaningful and timely input from scrutiny.
- (2) Cabinet Members, Policy and Scrutiny Chairs and Committee Members should have regular meetings to: discuss how and when scrutiny can have the most impact in developing policies, keep scrutiny aware of planned decisions and inform scrutiny of proposals before publication on the executive decision forward plan.
- (3) Recognising the risks around sharing sensitive information, Cabinet should provide clear reasoning for any policy development scrutiny which needs to be held in private session. Policy and Scrutiny Members should examine the executive decision forward plan to identify priorities for scrutiny and, where possible, all Scrutiny Members should have, and attend, briefings on relevant policies and developments.

### **2.3.3 Behaviours**

- (1) All Members should adhere to the Nolan principles of Public Life in all interactions with one another, officers and the public, as well as in their work to engage with the Policy and Scrutiny process.
- (2) Specifically, Policy and Scrutiny Committee Members should:
  - Take a strategic perspective, focusing on the wider community outcomes.
  - Be clear about the purpose of their work, the challenge they seek to provide and the lines of questioning pursued.
  - Be objective, evidence-based and constructive, acting as a critical friend to the Cabinet with a view to improving decision making.
  - Aim for consensus, drawing on political insight, but unafraid to act through majority vote where consensus cannot be reached.
  - Work collaboratively with the Cabinet to while recognising that Cabinet will not always agree with scrutiny conclusions and recommendations.
  - Be well informed on subject matter, taking up briefing opportunities and coming fully prepared to meetings, thus being able to contribute to impactful, strategic discussions.
- (3) And Cabinet Members should:
  - Recognise and value the role of Policy and Scrutiny, and be open to constructive challenge.
  - Engage with Committee Chairs and Members to ensure they are kept informed as to the priorities and plans of the Cabinet at the earliest possible opportunity and proactively identify issues where Policy and Scrutiny Members may be able to support and influence their work.
  - Respect the independence of Policy and Scrutiny Committees and their chosen work programmes.
  - Properly and fully consider the conclusions, findings and recommendations of Policy and Scrutiny, responding to these appropriately.
- (4) To ensure purposeful challenge, questioning from Policy and Scrutiny Members to Cabinet Members should be focused, constructive, strategic and outcome-based. Where possible, Cabinet Members should attend all relevant scrutiny meetings and be open to constructive challenge.

### **2.3.4 Recommendations**

- (1) Recommendations from Policy and Scrutiny to Cabinet Members should be SMART (specific, measurable, achievable, relevant and timed). The development of recommendations should be an iterative process: led by Policy and Scrutiny Members, drafted with appropriate input from the Executive and have due regard to advice received from senior officers and the Monitoring Officer as well as input from the community. Ensuring recommendations are constructive, clear and outcome-based will aid impact.
- (2) In line with statutory requirements, the Executive should consider the recommendations of Policy and Scrutiny within two months and provide responses to recommendations including reasoning behind any

recommendations not being accepted. If necessary and proportionate, Scrutiny Chairs should attend Cabinet meetings to provide feedback. Policy and Scrutiny Committees will also track recommendations, including responses, and assess the impact of scrutiny.

### **2.3.5 Performance Management**

- (1) The Audit and Performance Committee is responsible for overall performance management of council services and receives quarterly performance reports to support this work.
- (2) It is not the role of Policy and Scrutiny to performance manage individual service areas or Cabinet Members. There is however provision built in for the Audit and Performance Committee to refer areas of concern regarding service performance to the relevant Policy and Scrutiny Committee and in such circumstances, the relevant Cabinet Member should attend a meeting of that Committee to explore the reasons behind the performance concerns and, where appropriate, receive feedback and recommendations from the Committee as to how to remedy any issues.

### **2.3.6 Monitoring**

- (1) This protocol should be monitored on a regular basis by Scrutiny Chairs and the Cabinet. The Statutory Scrutiny Officer and the Monitoring Officer should be responsible for overseeing compliance with the protocol as well as supporting and promoting a culture of scrutiny by fully reviewing the protocol as part of the annual review and evaluation of Policy and Scrutiny activity which is reported to Full Council.



### **3. POLICY AND SCRUTINY COMMITTEE TERMS OF REFERENCE**

#### **OVERVIEW AND SCRUTINY COMMITTEE**

##### **CONSTITUTION**

7 Members of the Council (4 nominated by the Majority Party and 3 by the Opposition Party) but shall not include a member of the Cabinet.

##### **TERMS OF REFERENCE**

1. To provide overall leadership to the Policy and Scrutiny function, coordinating across work programmes and requesting that other committees investigate particular issues where appropriate and necessary.
2. To scrutinise cross-cutting or corporate areas of policy and/or service delivery, including but not limited to:
  - Corporate strategy
  - Crime and disorder;
  - Emergency planning
  - The local economy
  - Overall Local Development Framework (Planning Policy)
  - Overall licensing policy
  - Overall financial management (to the extent that this is not handled by the Audit and Performance Committee)
  - Corporate Property
  - Commercial Services and Procurement
  - Staffing/HR
  - Legal
3. To approve the Annual Report of Policy and Scrutiny activity and submit this to Full Council where necessary.
4. To exercise call-in provisions for issues within the scope of this terms of reference or for any matter which does not fall within the scope of the terms of reference for any other Policy and Scrutiny Committee.
5. To discharge the Council's statutory responsibilities under Section 19 of the Police and Justice Act 2006, thus acting as the Council's crime and disorder committee and fulfilling all the duties that entails.

## **CLIMATE ACTION, ENVIRONMENT AND HIGHWAYS POLICY AND SCRUTINY COMMITTEE**

### CONSTITUTION

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

### TERMS OF REFERENCE

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - The climate action programme
  - Environmental enforcement
  - Waste and cleansing
  - Highways and parking
  - Parks and open spaces
  - Any other matter intended to achieve environmental improvement, tackle the climate emergency or otherwise improve the cleanliness of the City
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.

## **HOUSING AND REGENERATION POLICY AND SCRUTINY COMMITTEE**

### **CONSTITUTION**

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

### **TERMS OF REFERENCE**

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Housing services and policies
  - Reducing rough sleeping
  - Housing regeneration schemes
  - Housing delivery and provision in the private and other sectors, and policies which enable this
  - Place-shaping schemes including Oxford Street
  - Any other matter intended to build housing, deliver housing services to residents and tackle homelessness and rough sleeping
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate, including housing associations.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.

## **YOUNG PEOPLE, LEARNING AND EMPLOYMENT POLICY AND SCRUTINY COMMITTEE**

### CONSTITUTION

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Member).

4 co-opted Members with voting rights i.e. one co-opted representative each from the Church of England and Roman Catholic Diocesan Education Boards and two Parent Governor Representatives. 2 co-opted Members without voting rights, i.e. 2 Headteachers of Westminster maintained schools.

NB: The voting rights of the co-opted only extend to matters relating to Education.

### TERMS OF REFERENCE

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Children's safeguarding services
  - Schools and other pre-18 education options
  - Adult education, including further and higher education
  - Wider employment and skills programmes
  - Libraries
  - Leisure services and partnerships
  - Any other matter intended to support or safeguard young people, improve the learning environment of the City or provide leisure and library-related services
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate.
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.

## **VULNERABLE ADULTS, HEALTH AND COMMUNITIES POLICY AND SCRUTINY COMMITTEE**

### CONSTITUTION

7 Members of the Council (4 Majority Party Members and 3 Opposition Party Members).

### TERMS OF REFERENCE

1. To undertake Policy and Scrutiny activity, in line with the functions set out in Section 1 of Chapter 4 of the Constitution, in respect of matters noted in this terms of reference.
2. To lead Policy and Scrutiny Activity for all matters relating to:
  - Adult's safeguarding services
  - Public health improvement
  - Health services in the city
  - Community safety services
  - Voluntary and community sector relationships and investment
  - Any other matter intended to support or safeguard vulnerable adults, improve health and wellbeing and our communities and support the voluntary sector in the city
3. Matters referred to in (2) above which are the responsibility of external agencies, and where the Committee may legitimately act to investigate, in particular to scrutinise matters relating to the provision of Health Services within Westminster, including the consideration of any reports referred by the local HealthWatch
4. Any other matter which the Overview and Scrutiny Committee has requested that this Committee investigates.
5. To discharge the Council's statutory responsibilities under Section 7 and 11 of the Health and Social Care Act 2001 and Section 23 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 with regard to any planned substantial developments and variations to NHS services, except where joint arrangements are made.

## **NORTHWEST LONDON JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

### **CONSTITUTION**

One nominated voting member from each Council participating in the Northwest 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. This committee will require at least six voting members in attendance to be quorate. The Northwest 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.

## **INNER WEST LONDON MENTAL HEALTH SERVICES RECONFIGURATION JOINT HEALTH OVERVIEW AND SCRUTINY COMMITTEE**

### **1 Name**

- 1.1 Inner West London Mental Health Services Reconfiguration Joint Health Overview and Scrutiny Committee (RBKC and WCC).

### **2 Terms of Reference**

#### **Purpose**

- 2.1 Health Services are required to consult a local authority's Health Overview and Scrutiny Committee about any proposals they have for a substantial development or variation in the provision of health services in their area. When these substantial developments or variations affect a geographical area that covers more than one local authority, the local authorities are required to appoint a Joint Health Overview and Scrutiny Committee (JHOSC) for the purposes of the consultation.
- 2.2 These terms of reference set out the arrangements for WCC and RBKC to operate a JHOSC to consider the Proposal made in relation to the services at the Gordon Hospital, the St Charles Mental Health Centre and wider community mental health services in the two boroughs, in line with the provisions set out in legislation and guidance.
- 2.3 This committee will cease to exist upon the conclusion of its work.

### **3. Remit**

- 3.1 The JHOSC will operate formally as a statutory joint committee i.e., where the councils have been required under Regulation 30 Local Authority (Public Health, Health and Well-being Boards and Health Scrutiny) Regulations 2013 to appoint a joint committee for the purposes of providing independent scrutiny.
- 3.2 Regulation 30 of the 2013 Regulations provides:
- Only the joint committee may respond to the consultation (i.e., rather than each individual local authority responding separately).
  - Only the joint committee may exercise the power to require the provision of information by the relevant NHS body or health service provider about the proposal.
  - Only the joint committee may exercise the power to require members or employees of the relevant NHS body or health service.
  - make comments on the proposal consulted on pursuant to regulation.



3.3 With the exception of those matters referred to in the paragraph above responsibility for all other health scrutiny functions and activities remain with the respective local authority Health Scrutiny Committees.

#### **4. Governance and Membership**

4.1 The JHOSC will be hosted by both authorities on rotation and meetings of the JHOSC will be conducted in accordance with the Standing Orders of the host local authority at the time.

4.2 Membership of the JHOSC will be appointed by the respective local authorities and their appointments notified to each other.

4.3 Each member of the JHOSC must be a properly elected Councillor to a seat on their respective authority and will cease to be a member of the JHOSC with immediate effect should they no longer meet this requirement.

4.4 Appointments by each authority to the JHOSC will be politically proportionate to that authority.

4.6 The quorum for meetings will be a minimum of 4 members, 2 from each authority. However, any vote on a referral to the Secretary of State will require all members to vote and be in agreement.

4.7 The chairing arrangements for the JHOSC for the duration of the Committee shall be elected and or decided at its first formal meeting and drawn from those Members in attendance at that meeting. Should the Chair cease to be a member of the JHOSC, a new Chair shall be elected at the next formal meeting.

4.8 The Vice-Chair of the JHOSC for the duration of the Committee shall be elected at its first formal meeting and drawn from those Members in attendance at that meeting. In the absence of the Chair, the Vice-Chair shall assume all chairing responsibilities. Should the Vice-Chair cease to be a member of the JHOSC, a new Vice-Chair shall be elected at the next formal meeting.

4.9 In the absence of both the Chair and Vice-Chair at any Meeting of the JHOSC, Members in attendance shall appoint a Chair for that Meeting from amongst their number, who shall, while presiding at that Meeting, have any power or duty of the Chair in relation to the conduct of the Meeting.

#### **5. Administration**

5.1 The overall coordination, facilitation of meetings, policy support and other administrative arrangements will be shared by the scrutiny and governance teams of both authorities.

5.2 Legal advice and support to the JHOSC will be provided by Bi-Borough Legal Services as well as the Monitoring Officers to both authorities.

6. **Reporting**

6.1 Members of the JHOSC may provide updates to the Full Council of their Local Authority on its proceedings in accordance with the requirements of their respective authority.

6.2 Any recommendations of the JHOSC shall be communicated to relevant parties in writing with a summary of the evidence and the matter under consideration.

## **CHAPTER 5 – COMMITTEES**

# **1. WESTMINSTER CITY COUNCIL FUNCTIONS DELEGATED TO COMMITTEES/SUB- COMMITTEES OF THE COUNCIL**

These are set out in the Terms of Reference of the following Committees/Sub-Committees:

- i. General Purposes
- ii. General Purposes Urgency
- iii. Audit and Performance
- iv. Audit and Performance Urgency
- v. Planning and City Development
- vi. Planning Applications Sub-Committees
- vii. Licensing Committee
- viii. Licensing Sub-Committees
- ix. Pension Fund Committee
- x. Pension Board
- xi. Education (Awards) Appeals Sub-Committee
- xii. Ratings Advisory Panel
- xiii. Discretionary Housing Payments Review Panel
- xiv. Health and Wellbeing Board
- xv. Standards Committee
- xvi. Pension Fund Committee
- xvii. Staff Appeals Sub-Committee
- xviii. Appointments Sub-Committee
- xix. Overview and Scrutiny Committee
- xx. Climate Action, Environment and Highways Policy and Scrutiny Committee
- xxi. Housing and Regeneration Policy and Scrutiny Committee
- xxii. Young People, Learning and Employment Policy and Scrutiny Committee
- xxiii. Vulnerable Adults, Health and Communities Policy and Scrutiny Committee
- xxiv. Northwest London Joint Health Overview and Scrutiny Committee
- xxv. Inner West London Mental Health Services Reconfiguration Joint Health Overview and Scrutiny Committee

## **2. STANDING ORDERS RELATING TO THE COMMITTEES AND SUB-COMMITTEES**

### **2.1. INTRODUCTION AND INTERPRETATION**

- (1) These Standing Orders regulate meetings of the Cabinet, Committees and Sub-Committees and impose minimum financial and other requirements. The Standing Orders also refer to some obligations imposed by statute.
- (2) The person presiding at a meeting (Chair) of a Committee or Sub-Committee, shall be the final authority as to the interpretation of Standing Orders.
- (3) In the event of any conflict between these standing orders and any more specific requirement of the Executive Procedure Rules and / or the Policy and Scrutiny Procedure Rules, the latter shall prevail.

### **2.2. APPOINTMENT AND MEMBERSHIPS, COMMITTEES AND SUB-COMMITTEES**

- (1) Members of Committees and Sub-Committees shall be appointed by the Chief Executive in accordance with the wishes of the Political Groups subject to any limitations imposed by legislation or Standing Orders notified to him in accordance with the Local Government (Committees and Political Groups) Regulations 1990 provided that where a Political Group has failed to express its wishes in relation to an appointment in accordance with the Regulations the Council in the case of a seat on a Committee or the parent Committee in the case of a seat on a Sub-Committee may make such appointment as it thinks fit. Any change in the membership of a Committee or Sub-Committee shall be reported at the commencement of the next meeting of the Committee or Sub-Committee.
- (2) Membership of Sub-Committees, may be drawn from the whole Council, except that Members of the Cabinet may not be Members of a Policy and Scrutiny Committee or any Sub-Committee thereof. A Member of the Cabinet may not be appointed as Chair of the Standards Committee or any Sub-Committee thereof. No Member may be involved in scrutinising a decision which they have been directly involved in.
- (3) The Leader (or Deputy Leader where notified and in the absence of the Leader) or the Chief Whip or Deputy Whip as notified by them of each political group of the Council may notify the Chief Executive up to two hours prior to the meeting of any substitute Members for a meeting of a Committee or Sub-Committee provided that the substitute is also a member of the same political group and in the case of Policy and Scrutiny Committees is not a member of the Cabinet. Following the notification of a substitute the permanent Member

shall only resume their membership at the conclusion of the relevant meeting.

### **2.3. APPOINTMENT AND DUTIES OF CHAIRS AND VICE-CHAIRS OF COMMITTEES AND SUB-COMMITTEES**

- (1) The Leader of the Council (the Deputy Leader in the Leader's absence) may nominate the Chairs and Vice-Chairs of Committees, Sub-Committees and other subordinate bodies, which Committees, Sub-Committees or subordinate bodies shall determine whether or not to appoint the person(s) so nominated at their first or next appropriate meeting following such nomination.
- (2) In the case of any Committee or Sub-Committee, more than one Vice-Chair may be appointed. If in the absence of the Chair of any Committee more than one Vice-Chair is present, the Vice-Chairs shall agree which of them shall preside at the meeting. In default of such agreement the Committee or Sub-Committee shall elect a Chair for that meeting only.
- (3) The Chair of a Committee or Sub-Committee shall:
  - i. preside at every meeting of the relevant body at which he is present and exercise any powers or duty of the Chair;
  - ii. authorise the minutes of proceedings of the previous meeting when approved as a correct record;
  - iii. in the case of an equality of votes, have a second or casting vote;
  - iv. determine all questions of order; and
  - v. have power, after consultation with the member nominated by the other party group as their spokesman if any, to authorise
    - a) the convening of an additional meeting
    - b) variation to the date and/or time and/or place of a schedule meeting;
    - c) the cancellation of a meeting if, in his/her opinion, there is insufficient business to warrant the holding of such a meeting or for other special reasons.
- (4) A Vice-Chair of the Committee or Sub-Committee shall in the absence of the Chair, have the powers, duties and rights of the Chair.
- (5) Where no appointment of a Chair and a Vice-Chair of a Sub-Committee has been made or when the appointed Chair and Vice-Chair of the Sub-Committee are absent the powers in paragraph 3 above may be exercised by the Chair or Vice-Chair of the parent Committee.
- (6) Where no appointment of a Chair or Vice-Chair of a Committee or Sub-Committee has been made the provisions of paragraph 3 above may be exercised by the Chief Executive in consultation with any person nominated

(or deemed to be so nominated) as Chair and/or Vice-Chair of the relevant Committee or Sub-Committee in accordance with paragraph 1 above.

#### **2.4. NOTICE AND PLACE OF MEETINGS OF THE CABINET, COMMITTEES AND SUB-COMMITTEES**

- (1) The General Purposes Committee shall each year determine a schedule of meetings for the Policy and Scrutiny Committees and the non-Executive Committees and Sub-Committees, which may be varied in accordance with Standing Orders. The Leader will also agree a Schedule of meetings of the Cabinet and any Cabinet Committees.
- (2) At least five days excluding, Saturdays, Sundays and public holidays, before the day appointed for a meeting of the Cabinet, a Committee or Sub-Committee, public notice shall be given and the Chief Executive shall send to every member of the Cabinet, Committee or relevant Member a notice convening the meeting setting out the time and place of the meeting and specifying the business to be transacted at the meeting, provided that:
  - i. want of service of notice on any member of the Cabinet, a Committee or Sub-Committee shall not affect the validity of the meeting;
  - ii. by reason of special circumstances (which shall be recorded in the Minutes) the Chair may at his their discretion admit for consideration items of business which are in his their opinion urgent;
  - iii. the order of business may be varied at the discretion of the Chair at the meeting.
  - iv. such notice may be delivered by electronic means.

#### **2.5. CONDUCT OF DEBATE OF THE CABINET, COMMITTEES AND SUB-COMMITTEES**

- (1) When the Chair speaks every other member shall sit and be silent.
- (2) When speaking a member shall remain seated and address the Chair.
- (3) While a member who has been called upon by the Chair to speak is addressing the meeting other members shall remain seated and be silent unless they wish to raise a point of order or to make a personal explanation.
- (4) A member shall direct their speech strictly to the matter under discussion or to a personal explanation or to a point of order.
- (5) Where there is a motion or amendment before the Cabinet, a Committee or Sub-Committee a motion may be formally moved and formally seconded that the question be now put. The Chair shall have a discretion to allow such a motion. No debate on such motion or on the exercise of the discretion allowed to the Chair shall be permitted and the decision of the Chair shall be final. If a

motion that the question be now put is allowed that motion shall immediately be put to the vote and if it is carried the motion or amendment before the Cabinet, Committee or Sub-Committee shall be put to the vote without further debate. If the motion that the question be now put is not carried the debate on the motion or amendment shall continue.

## **2.6. DEPUTATIONS AT MEETINGS OF THE CABINET, COMMITTEES AND SUB-COMMITTEES**

- (1) A request for the reception of a deputation shall be referred by the Chief Executive for consideration by the Cabinet or the appropriate Committee or Sub-Committee which may agree to receive the deputation.
- (2) When the Cabinet, a Committee or Sub-Committee agrees to receive a deputation it shall specify: the number of persons to be received; the number of persons who may address the meeting; and the time to be allocated for speeches by those members of the deputation whom it agrees to hear.

## **2.7. POINTS OF ORDER AND PERSONAL EXPLANATION**

- (1) A member of the Cabinet a Committee or Sub-Committee may raise a point of order at any time, but when doing so must specify the particular Standing Order or statutory provision which they allege has been breached or on which they otherwise rely, specifying the way in which they consider it has been breached.
- (2) Subject to (3) below a member making a personal explanation shall be entitled to be heard forthwith. Any member speaking when a personal explanation is made shall immediately cease their speech. A personal explanation may be made by a member who -
  - i. has spoken earlier in the debate then in progress who wishes to correct a misstatement they have made; or
  - ii. wishes to correct a statement made about them by the person speaking; or
  - iii. wishes to correct a misquotation by the person speaking of facts originally put by them earlier in the debate.
- (3) The ruling of the Chair on a point of order or on the right to make a personal explanation shall be final and shall not be open to debate.

## **2.8. MODE OF VOTING**

- (1) Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.



- (2) If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.
- (3) Unless a recorded vote is demanded, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.
- (4) 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.
- (5) If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **2.9. DISORDER**

- (1) If at a meeting of the Cabinet, a Committee or Sub-Committee any member persistently disregards the ruling of the Chair or behaves improperly or offensively (whether to the Chair or to any other member) or wilfully or recklessly obstructs the business of the Cabinet, a Committee or Sub-Committee or acts in a frivolous manner which is, in the opinion of the Chair contrary to the dignity of the Council the Chair may direct that they be not heard further.
- (2) If the member continues their misconduct, the Chair may direct them to leave either for a fixed period or until the end of the meeting and if they refuse to leave the meeting, the Chair shall direct that all necessary steps be taken to secure their removal, and shall adjourn the meeting until such removal is effected.
- (3) If the Chair is satisfied that it is necessary for the purpose of restoring order they may adjourn the meeting. If no period for the adjournment is specified by the Chair the meeting shall be deemed to have been adjourned for 5 minutes.
- (4) The public shall be admitted to any meeting of the Cabinet, Committee or Sub-Committee subject to the power to exclude the public to avoid the disclosure of confidential or exempt information under the Local Government Act 1972, and the power of exclusion to suppress or prevent disorderly conduct at the meeting. The Chair may, if in their opinion it is necessary in order to prevent disorderly conduct or other misbehaviour by the public or any member of the public:

- i. refuse admission to any person to any meeting of the Cabinet a Committee or Sub-Committee;
  - ii. take all steps necessary to secure the removal of any person previously admitted;
  - iii. order the clearance of the public gallery and may adjourn the meeting whilst such removal or clearance takes place.
- (5) Without prejudice to the powers conferred on the Chair by paragraph (4) of this Standing Order, Chief Executive shall be authorised to appoint suitable persons to act as stewards at meetings of the Cabinet, Committees and Sub-Committees. Any such steward, who shall carry proof of authority and be clearly identifiable as such, shall be empowered to take all steps necessary to maintain order in the public gallery and in the event of disorderly conduct or other misbehaviour by any member of the public shall be empowered without prior instruction from the Chair to order that person to leave and to take all steps necessary to secure the removal of that person from the meeting.
- (6) If the powers in (4) and (5) are exercised, re-admission of the public or any member thereof shall be at the discretion of the Chair.

## **2.10. REPORTING ON PUBLIC MEETINGS**

- (1) Members of the public, including representatives of the media, shall be permitted to report on the Part 1 (public) part of the Council's formal meetings. Reporting may include filming, photographing or making an audio recording of proceedings at a meeting; using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present. The Chair may only refuse permission if there is just reason for doing so, in exceptional circumstances, in the interests of good conduct and in accordance with Standing Order 2.9 (Disorder). Such decisions shall not be open to challenge.

## **2.11. TERMINATION OF MEETING**

- (1) When the Cabinet, a Committee or Sub-Committee, except hearings conducted by the Licensing Sub-Committee, has sat continuously for 4 hours (including any periods of adjournment) then unless after the expiration of 3½ hours it has resolved to continue the sitting beyond 4 hours either to a fixed time or until the completion of all or certain business on the agenda, the Chair shall draw the attention of the Committee or Sub-Committee to that fact, whereupon all Standing Orders except Standing Order (Disorder) and this one shall be deemed to have been suspended, and he/she shall then direct that there be no further debate. Any report dealing with an urgent item of business

shall be placed before the Cabinet, Committee or Sub-Committee for decision but shall not be the subject of debate. Any report submitted for information shall be deemed to have been noted. The Chair shall then advise how any outstanding business will be dealt with.

## **2.12. QUORUMS FOR MEETINGS OF THE CABINET COMMITTEES AND SUB-COMMITTEES**

(1) No business shall be transacted at a meeting of the Cabinet, a Committee or a Sub-Committee unless a quorum is present: The quorums are as follows:-

### Members

Cabinet (See also the Executive Procedure Rules)	3
Policy and Scrutiny Committees	3
Overview and Scrutiny Committee	3
Audit and Performance Committee	3
General Purposes Committee	3
Standards Committee	3
Planning and City Development Committee	3
Urgency Sub-Committees	2
Planning Applications Committee	2
Licensing Committee	3
Licensing Sub-Committees	2
Education Awards Appeals Sub-Committee	2
Appointments Sub-Committee	2
Rating Advisory Panel	2
Staff Appeals Sub-Committee	2
Any other Committee or Sub-Committee	2

(2) If at the expiration of 15 minutes after the time at which a meeting is convened a quorum is not present, the meeting shall not take place and the business shall, unless otherwise disposed of, be included on the agenda for the next ordinary meeting of the Cabinet, Committee or Sub-Committee.

## **2.13. CABINET, COMMITTEE AND SUB-COMMITTEE MEETINGS OPEN TO ALL MEMBERS**

(1) A member of the Council shall be entitled to attend a meeting of the Cabinet, a Committee or Sub-Committee of which they are not a member except the following once the press and public have been excluded;

- i. Staff Appeals Sub-Committee

- ii. Education Awards Appeals Sub-Committee Licensing Sub-Committees
  - iii. Rating Advisory Panel Appointments Sub-Committee
  - iv. Discretionary Housing Payments Review Panel
- (2) Any Member wishing to remain in attendance at a meeting of the above, when the press and public have been excluded, must deliver a written request to the Chief Executive by not later than noon on the day preceding the meeting, setting out his reasons for wishing to attend. The Chief Executive shall then, in consultation with the relevant Chair be authorised to decide, whether, the Member should be permitted to attend on a 'need to know' basis.
- (3) Any member attending a meeting of the Cabinet, a Committee or Sub-Committee of which they are not a member may not speak at the meeting except with the consent of the Chair, and for the purpose of obtaining such consent, a visiting member shall indicate to the Chair before the commencement of the meeting the agenda item(s) on which they wish to speak; provided that this limitation shall not apply to:
- i. the Leader of the Council or to the Leader of the Opposition who shall be entitled to speak at any meeting of the Cabinet, Committee or Sub-Committee;
  - ii. the mover of a motion at a meeting of the Council giving rise to a reference to Cabinet, a Committee or Sub-Committee;
  - iii. a Lead Member appointed from outside the Cabinet's or Committee's Membership who shall have the right to attend and speak (but not vote) at meetings of the Cabinet or Committee on matters within their Lead Member remit.

## **2.14. DECISIONS BETWEEN MEETINGS**

- (1) The Leader (or in their absence the Deputy Leader) shall appoint an Urgency Committee of three Members of the Cabinet. The General Purposes Committee, the Licensing Committee and the Audit and Performance Committee shall each appoint an Urgency Sub-Committee of three Members appointed in accordance with Standing Order 2.2.
- (2) Between scheduled meetings of the Cabinet or the General Purposes Committee, the Licensing Committee or the Audit and Performance Committee any matter may be referred to an Urgency Committee or Sub-Committee constituted in accordance with this Standing Order by the Chief Executive or any Chief Officer where, in the opinion of any of them, it is urgent and cannot wait until the next ordinary meeting of the Cabinet, the General Purposes Committee, the Licensing Committee or the Audit and Performance Committee.

- (3) A meeting of the Cabinet Urgency Committee, the General Purposes, Licensing, or the Audit and Performance Urgency Sub-Committees shall be empowered to decide any matter within the terms of reference of the Cabinet or the relevant parent committee or any of their respective Sub-Committees which has been referred to it for decision by the Chief Executive or any Chief Officer provided that the Urgency Committee or Urgency Sub-Committee is satisfied that the matter cannot wait until the next ordinary meeting.
- (4) All Standing Orders which apply to Committees and Sub-Committees other than those which are inconsistent with this Standing Order, shall apply to a meeting of an Urgency Committee or Urgency Sub-Committee.
- (5) Where the Chief Executive or any Chief Officer is of the opinion that a matter which is within the terms of reference of the General Purposes Committee, the Licensing Committee, the Audit and Performance Committee or the Cabinet but does not require a meeting of the General Purposes, or the Audit and Performance Urgency Sub-Committees, the Licensing Urgency Sub-Committees, the Urgency Committee of the Cabinet, he may send a written report to the members of the Urgency Committee/Sub-Committee, and any Ward Members who would otherwise have been consulted in accordance with the Code of Governance, and make a decision on that matter provided that:
- i. subject to (ii) below, no matter shall be decided by a Chief Officer pursuant to this Standing Order until the expiration of four clear days from the report being sent and provided further that any written representation received before a decision is taken in accordance with this Standing Order must be considered by the relevant Chief Officer before exercising these powers;
  - ii. in the case of a matter which the Chief Officer considers to be exceptionally urgent they may take a decision before the expiration of four clear days provided they have advised the Members to be consulted of his intention to do so. When taking a key decision under these powers Chief Officers shall also comply with the provisions of Regulations 9(1) and 16 of the Local Authority (Executive Arrangements)(Access to Information)(England) Regulations 2000.
  - iii. in the case of a report submitted in the names of more than one Officer the first named Chief Officer shall exercise these powers unless the matter has been referred to the Chief Executive by any Chief Officer or has been called in by the Chief Executive for decision in which case the matter shall be determined by the Chief Executive.

## **2.15. CONFIDENTIAL REPORTS AND OTHER DOCUMENTS**

- (1) In respect of reports, parts of reports or other documents which, are marked "Not for publication" or are otherwise described as confidential it shall be the duty of members and officers not to disclose any information contained therein until the Cabinet, a Committee, Sub-Committee, or relevant Chief

Officer so decides. Failure to comply with this provision would constitute a breach of the member or officer codes of conduct.

## **2.16. CO-OPTED MEMBERS – VACATION OF OFFICE**

- (1) If a co-opted member of a Committee or Sub-Committee of the Council fails for a period of six consecutive months to attend any meeting of that Committee or Sub-Committee, they shall, unless failure was due to some reason approved by the Council, cease to be a co-opted member of that Committee or Sub-Committee.

## **2.17. LEADERS**

- (1) The Member so chosen by the Majority of the Members of the Council shall be known as the Leader of the Council who must in turn appoint a Member of the Cabinet to be known as the Deputy Leader of the Council. The political party with the second largest number of Members elected to the Council (or a combination of parties) may choose one of their Members to be known as the Leader of the Opposition whose name shall be notified to the Chief Executive who shall advise Members accordingly.
- (2) The Leader of the Council will take Office upon election by the full Council. The Deputy Leader of the Council, and the Leader of the Opposition, shall each take office on the date of the receipt by Chief Executive of notice of their selection and shall cease to hold office on the date of receipt by the Chief Executive of a letter notifying them to that effect.

## **2.18. SUSPENSION OF STANDING ORDERS**

- (1) Any part of these Standing Orders may be suspended (provided such suspension is not contrary to law and does not impinge on the power of a higher authority) in respect of any business at the meeting where its suspension is moved.

## **2.19. PROVISIONS FOR REMOTE MEETINGS**

- (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.

### **3. TERMS OF REFERENCE FOR COMMITTEES (EXCEPT POLICY AND SCRUTINY COMMITTEES)**

# **PLANNING AND CITY DEVELOPMENT COMMITTEE**

## **CONSTITUTION**

14 members of the Council (8 Majority party members and 6 Opposition party members). Such members to be members of the Planning Applications Sub-Committees.

## **TERMS OF REFERENCE**

- (1) To consider proposed local plan policies (and supplementary planning documents) at appropriate stages of the statutory process for their preparation and adoption and make recommendations to the relevant Cabinet Member.
- (2) To have oversight of the practices and procedures of the Planning Applications Sub-Committees (but not to consider individual planning applications) making recommendations where necessary to officers, Planning Applications Sub-Committees and/or the Cabinet for Planning and Public Realm.
- (3) To consider and recommend a training programme for members of the Planning Applications Sub-Committees.



# **PLANNING APPLICATIONS SUB-COMMITTEE (X 4)**

## **CONSTITUTION**

The Planning (Major Applications) Sub-Committee consists of 6 members of the Council (4 Majority Party Members and 2 Opposition Party Members). Planning Sub-Committees 1-3 consist of 4 Members of the Council (3 Majority Party Members and 1 Opposition Party Member)

## **TERMS OF REFERENCE**

- (1) The making and issuing within the policy context determined by the Council, of decisions on applications for permission, notices and deposit of plans under the Planning Acts, the Building Act 1984, the London Building Acts, the London Squares Preservation Act 1931 and any Local Act requiring decisions relating to planning and building control functions, to the extent that these are Non-Executive functions.
- (2) To review planning briefs and recommend any changes to the Cabinet Member for Built Environment for consideration.
- (3) Authorisation of
  - (a) agreements and undertakings under Section 106 and 299A of the Town and Country Planning Act 1990, Section 16 of the Greater London Council (General Powers) Act 1974, Section 33 of the Local Government (Miscellaneous Provisions) Act 1972 and where required in connection with planning applications, Section 278 of the Highways Act 1980, and the release of such obligations;
  - (b) notices, orders (including the confirmation of) Tree Preservation Orders, Directions Certificates and Grants under the Planning Acts;
  - (c) rights of entry under the Planning Acts, the Building Act 1984, the London Building Acts and any such rights conferred by other legislation where incidental to functions under these Acts;
  - (d) the carrying out of works and the recovery of costs in default of compliance with Notices issued or served under the Planning Acts London Building Acts and Building Act 1984;
- (4) Within the policy context determined by the Council and the Cabinet Member for Built Environment, to exercise the functions of the Council under the Town and Country Planning (Control of Advertisements) Regulations.
- (5) To approve highway works, highway amenities, Highways matters relating to approved development, the dedication of land for highway purposes and the stopping up or diversion of highways and any necessary traffic orders in

connection with planning applications or the implementation of permissions resulting from such applications subject to the whole of any cost involved being payable by developers and secured by Agreement.

- (6) To determine matters referred by officers under Part 8 (High Hedges) of the Anti-Social Behaviour Act 2003.

# **LICENSING COMMITTEE**

## **CONSTITUTION**

15 Members of the Council. 8 nominated by the Majority party and 7 nominated by the Opposition party.

## **TERMS OF REFERENCE**

- (1) All matters relating to the discharge by the Authority of its licensing functions as required by Section 7(1) of the Licensing Act 2003.
- (2) To receive reports on Licensing Act 2003 matters, as required by the Council's Policy Statement on Licensing.
- (3) To agree procedures for operation by the Licensing Committee and the Licensing Sub-Committees when conducting hearings and other functions within their terms of reference.
- (4) To establish Licensing Sub-Committees and approve their terms of reference.
- (5) To be responsible for those matters more fully set out in the terms of reference of the Licensing Sub-Committee and to determine any matter referred to it by a Licensing Sub-Committee.
- (6) To consider any reports which are required by Statute to be submitted to the Licensing Committee.
- (7) To be responsible for the delegation to Officers of licensing functions as defined by the Licensing Act 2003 and the other functions included within these Terms of Reference.
- (8) Procedures for the conduct of business at the Officer Panel and the Licensing Sub-Committees, including all matters in respect of the processing of applications.
- (9) Non-executive matters in respect of the Council's Street Markets and all other non-executive Street Trading matters.
- (10) Non-executive matters in respect of licensing functions within these terms of reference and those of the Licensing Sub-Committees.
- (11) The grant, approval, review, refusal, revocation, renewal, transfer of variation of any licence, registration, certificate, consent, permit, approval of permission, except where such function is within the terms of reference of a Cabinet Member or such specific matter is being discharged by a Licensing Sub-Committee.
- (12) All non-executive functions relating to the Gambling Act 2005.

# **LICENSING SUB-COMMITTEE NOS 1 TO 5**

## CONSTITUTION

3 Members of the Licensing Committee

## TERMS OF REFERENCE

LICENSING ACT 2003

Personal Licences

- (1) To consider applications for a personal licence, where a representation has been made and the Cabinet Member for Public Protection and Licensing has asked that the application be referred to a Licensing Sub-Committee for determination.
- (2) To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.

## PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

- (3) To consider applications for premises licences/club premises certificates where a representation has been made.
- (4) To consider applications for provisional statement where a representation has been made.
- (5) To consider applications for the transfer of a premises licence where a representation by the Police has been made.
- (6) To consider applications for interim authorities where a representation by the Police has been made.
- (7) To consider reviews to premises licences/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.

## GAMBLING ACT 2005

To consider applications, submitted in accordance with the Gambling Act 2005.

## TEMPORARY EVENT NOTICES

- (8) To determine a Police representation in respect of a temporary event notice.

# LICENSING SUB-COMMITTEE NO 6

## CONSTITUTION

3 Members of the Licensing Committee

## TERMS OF REFERENCE

LICENSING ACT 2003

Personal Licences

- (1) To consider applications for a personal licence, where a representation has been made and the Cabinet Member for Public Protection and Licensing has asked that the application be referred to a Licensing Sub-Committee for determination.
- (2) To consider applications for a personal licence in cases where the applicant has unspent criminal convictions.

## PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

- (3) To consider applications for premises licences/club premises certificates where a representation has been made.
- (4) To consider applications for provisional statement where a representation has been made.
- (5) To consider applications for the transfer of a premises licence where a representation by the Police has been made.
- (6) To consider applications for interim authorities where a representation by the Police has been made.
- (7) To consider reviews to premises licences/club premises certificates where these have been requested by the relevant authority in accordance with the relevant regulations.

## GAMBLING ACT 2005

To consider applications, submitted in accordance with the Gambling Act 2005.

## TEMPORARY EVENT NOTICES

- (8) To determine a Police representation in respect of a temporary event notice.

## OTHER LICENSING FUNCTIONS

- (9) The grant, approval, review, refusal, revocation, renewal, transfer or variation of any licence, registration, certificate, consent, permit, approval or permission, except where such function is within the terms of reference of another committee or sub-committee; body;
- (10) Without prejudice to the powers delegated to officers, and to the Licensing Officers' Panels, to hear and determine applications and appeals where there is a right to be heard;
- (11) Procedures for the conduct of business at the Officer Panel and the Licensing Sub-Committee, including all matters in respect of processing applications.
- (12) Operational matters in respect of licensing functions within the terms of reference of the Sub-Committee;
- (13) The approval of commodity guidelines in markets;
- (14) The designation, de-designation and variations to designations of street trading pitches;
- (15) The amendment of rules of management and standard conditions;
- (16) To consider and hear representations in respect of fees and charges and to determine the amounts thereof;
- (17) The consideration of all matters applications in respect of the minor licensing functions e.g. Pedlars Act and Nurseries Act; which have not been the subject of delegations to Officers;
- (18) To authorise a later hour in substitution for 12 midnight in Bylaw 3(2) of the Pleasure Fairs (Amusement Premises) Bylaws.

# **LICENSING URGENCY SUB-COMMITTEE**

## **CONSTITUTION**

3 Members of the Licensing Committee

## **TERMS OF REFERENCE**

All matters within the terms of reference of the Licensing Committee and its Sub-Committees provided that the Urgency Sub-Committee is satisfied that the matter is urgent and cannot wait until the next relevant meeting.

# **GENERAL PURPOSES COMMITTEE**

## **CONSTITUTION**

4 Members of the Council (3 Majority Party Members and 1 Opposition Party Members).

## **TERMS OF REFERENCE**

### (1) MEMBERS ALLOWANCES

Making recommendations to the Council for the adoption or revision of a scheme of allowances for Members.

### (2) HEALTH AND SAFETY

The City Council's functions under the Health and Safety at Work Act 1974 (except to the extent that these functions are discharged by the Council or an employer).

### (3) FUNCTIONS IN RELATION TO ELECTIONS

Elections and Electoral Registration Matters.

### (4) PROMOTION/OPPOSITION OF LEGISLATION/BYELAWS

(a) To make recommendations to the Council as to the promotion or opposition to legislation where considered appropriate.

(b) To recommend to Council the adoption, amendment or repeal of bylaws.

### (5) CONSTITUTION AND STANDING ORDERS

To keep under review and make recommendations as to the Constitution and to recommend to the Council the adoption, repeal or amendment of Standing Orders. To make recommendations to the Council as to the appointment of Committees.

Note: This does not apply to changes to the following core documents which are the responsibility of the relevant Cabinet Member, Committee or Strategic Executive Board Member or Head of Service to approve. In addition, changes to the terms of reference of Sub-Committees shall, once approved by the relevant parent committee be included in the Constitution, without additional approval being necessary.

Code of Governance (Chief Executive)



Procurement Code	(Relevant Cabinet Member)
Scheme of Delegations *	(Director of Law)
Employee Code	(Director responsible for People Services)
Financial Regulations	(The City Treasurer)

\* The Scheme of Delegations will only be updated by the Director of Law following the approval of the delegation by the Cabinet, Cabinet Member or relevant Committee.

(6) PAYMENTS OF COMPENSATION IN CASES OF MALADMINISTRATION

Approval of payments and benefits in cases of maladministration where these exceed Chief Officers delegated powers or the relevant Chief Officers refer the matter to the Committee.

(7) ETHICAL GOVERNANCE

Notwithstanding the terms of reference of the Audit and Performance Committee, the General Purposes Committee will retain the responsibility for monitoring and implementing the action plan arising from the Audit Commission's Ethical Governance Audit of Westminster.

(8) OTHER MATTERS

- (a) All other non-executive functions not delegated to any other committee.
- (b) All other functions referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (i.e. "local choice" functions) not specifically allocated.
- (c) Other matters more specifically included in the terms of reference of the Committee's Sub-Committees.

# **GENERAL PURPOSES URGENCY SUB-COMMITTEE**

## **CONSTITUTION**

3 Members of the Council

## **TERMS OF REFERENCE**

- (1) All matters within the terms of reference of the General Purposes Committee and its Sub-Committees provided that the Urgency Sub-Committee is satisfied that the matter is urgent and cannot wait until the next relevant meeting.

# APPOINTMENTS SUB-COMMITTEE

## CONSTITUTION

4 Members of the Council (must contain at least one member of the Cabinet)

## TERMS OF REFERENCE

### (1) GENERAL

(a) To control the appointment, dismissal, retirement, pensions and other personnel matters of the Chief Executive, Chief Officers and Deputy Chief Officers.

(b) In the case of Deputy Chief Officers to undertake the functions listed in (a) above except where the relevant Cabinet Member has indicated that they don't wish the Appointments Sub-Committee to do so.

(c) To also be responsible for the appointment, on behalf of the City Council, of Chief Officers being appointed as part of the Tri-borough arrangements. Deputy Chief Officers shall also be appointed by this process except where the relevant Cabinet Member has indicated that they wish the appointment to be made by the Chief Executive or another Chief Officer in accordance with the Council's usual appointment procedures.

### (2) APPOINTMENTS

(a) To interview for vacant posts and make appointments and subsequent arrangements in respect of the above posts.

# **STAFF APPEALS SUB-COMMITTEE**

## CONSTITUTION

3 members of the Council.

## TERMS OF REFERENCE

To hear and determine appeals against disciplinary action; in accordance with the City Council's codes and procedures.

# **RATING ADVISORY PANEL**

## **CONSTITUTION**

4 Members of the Council (3 Majority Party and 1 Opposition Party).

## **TERMS OF REFERENCE**

- (1) To hear and make recommendations to the Cabinet Member for Finance, Property and Regeneration on appeals in respect of the decision of the Chief Finance Officer not to reduce or remit the whole of a ratepayer's liability for National Non-Domestic Rate on the grounds of hardship, in accordance with the City Council's guidelines.
- (2) To consider and make recommendations to the Cabinet for Finance, Property and Regeneration on applications for Non-Domestic Rate relief which have been referred to the Panel by the Chief Finance Officer because, in his opinion, they are cases of a special nature.

# **EDUCATION (AWARDS) APPEALS SUB-COMMITTEE**

## CONSTITUTION

4 Members of the Council

## TERMS OF REFERENCE

(1) The determination of Appeals against the refusal of Post-Compulsory (Schools) Education Awards under the Education Act 1996 as amended, or any legislation amending or replacing the same.

(2) The determination of appeals against the refusal of Pupil Benefit Awards under the Education Acts 1944 to 1994 (or any legislation amending or replacing the same), including the following:

- (a) the provision of home to school transport;
- (b) the provision of school journey grants;
- (c) the provision of school clothing awards;
- (d) the payment of fees for dancing and choral music schools.

(3) Subject to the approval of the Cabinet Member for Children's Services of the revised policy to consider appeals against the refusal of the award of transport assistance for pupils with special and additional educational needs.

# **DISCRETIONARY HOUSING PAYMENTS REVIEW PANEL**

## CONSTITUTION

3 Members of the Council.

## TERMS OF REFERENCE

To hear appeals against decisions in respect of discretionary housing payments and to make recommendations to the Cabinet member for Finance, Property and Regeneration.

# PENSION FUND COMMITTEE

## CONSTITUTION

4 Members of the Council (3 Majority Party Members and 1 Opposition Party Member)

## TERMS OF REFERENCE

To have responsibility for all aspects of the investment and other management activity of the Council's Superannuation Fund, including, but not limited to, the following matters:

- (1) To agree the investment strategy having regard to the advice of the Fund Managers and the independent adviser.
- (2) To monitor performance of the Fund and of the individual Fund Managers;
- (3) To determine the Fund management arrangements, including the appointment and termination of the appointment of the Fund Managers, Custodians and Fund Advisers.
- (4) To agree the Statement of Investment Principles, the Funding Strategy Statement, the Business Plan for the Fund, the Governance Policy Statement, the Communications Policy Statement and the Governance Compliance Statement and to ensure compliance with these.
- (5) To approve and publish the pension fund annual report.
- (6) To prepare and publish a pension administration strategy.
- (7) To make an admission agreement with any admission body.
- (8) To ensure compliance with all relevant statutes, regulations and best practice with both the public and private sectors.
- (9) To determine the compensation policy on termination of employment and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (10) To determine policy on the award of additional membership of the pension fund and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (11) To determine policy on the award of additional pension and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).



- (12) To determine policy on retirement before the age of 60 and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (13) To determine a policy on flexible retirement and to make any decisions in accordance with that policy other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).
- (14) To determine questions and disputes pursuant to the Internal Disputes Resolution Procedures.
- (15) To determine any other investment or pension policies that may be required from time to time so as to comply with Government regulations and to make any decisions in accordance with those policies other than decisions in respect of the Chief Executive, Chief Officers and Deputy Chief Officers of the Council (which fall within the remit of the Appointments Sub-Committee).

# **STANDARDS COMMITTEE TERMS OF REFERENCE**

## **CONSTITUTION**

6 Members of the Council, 4 Majority Party Members and 2 Opposition Party Member.

## **TERMS OF REFERENCE**

(1) To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.

(2) To advise the City Council on the adoption or revision of a Code of Conduct for Members.

(3) Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.

(4) To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members.

(5) To monitor the operation of Code of Conduct for Members.

(6) Consider reports referred to the Committee by ethical standards officers or the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.

(7) Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required.

(8) Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall only have power to impose any sanction authorised by law).

(9) Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken, if any.

(10) To the extent allowed by the Law, granting dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct.

(11) To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

# AUDIT AND PERFORMANCE COMMITTEE

## CONSTITUTION

4 Members of the Council, 3 Majority Party Members, 1 Opposition Party Member and 1 Independent Member, but shall not include a Cabinet Member.

## TERMS OF REFERENCE

### Audit Activity

- (1) To consider the head of internal audit's annual report including the auditor's opinion on the Council's control environment and a summary of internal audit and anti-fraud activity and key findings.
- (2) To consider reports, at regular intervals, which summarise: the performance of the Council's internal audit and anti fraud service provider/s audits and investigations undertaken and key findings progress with implementation of agreed recommendations
- (3) To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
- (4) To consider specific reports as agreed with the external auditor.
- (5) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (6) To liaise with the Audit Commission over the appointment of the Council's external auditor.
- (7) To comment on the proposed work plans of internal and external audit.

### Regulatory Framework

- (8) To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- (9) To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- (10) To monitor the effective development and operation of risk management and corporate governance in the Council.
- (11) To monitor Council policies on 'Raising Concerns at Work', the Council's complaints process and the Antifraud and Corruption Strategy; specifically the effectiveness of arrangements in place to ensure the Council is compliant with the Bribery Act 2010.

- (12) To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.
- (13) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- (14) To consider the Council's compliance with its own and other published standards and controls.
- (15) To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority and in this context to receive a report annually from the Director of Law and the Chief Finance Officer.

#### Accounts

- (16) To review the annual statement of accounts and approve these for publication. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- (17) To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

#### Performance Monitoring

- (18) To review and scrutinise the financial implications of external inspection reports relating to the City Council.
- (19) To receive the quarterly performance monitoring report and refer any issues which in the Committee's view require more detailed scrutiny to the relevant Policy and Scrutiny Committee.
- (20) To review and scrutinise personnel issues where they impact on the financial or operational performance of the Council including but not limited to agency costs, long-term sickness, ill health early retirements and vacancies; and
- (21) To review and scrutinise Stage 2 complaints made against the City Council and monitor progress.
- (22) To consider and advise upon, prior to tender, the most appropriate contractual arrangements where a proposed contract has been referred to the Committee by the Chief Executive.
- (23) To maintain an overview of overall contract performance on behalf of the Council.
- (24) To review and scrutinise contracts let by the Council for value for money and adherence to the Council's Procurement Code.

(25) To review and scrutinise the Council's value for money to Council tax payers.

(26) To scrutinise any item of expenditure that the Committee deems necessary in order to ensure probity and value for money.

### Staffing

(27) To advise the Cabinet Member for with responsibility for Finance on issues relating to the remuneration of all staff as necessary.

(28) In the course of carrying out its duties in respect of (27) above, to have regard to the suitability and application of any grading or performance related pay schemes operated, or proposed, by the Council.

# **AUDIT & PERFORMANCE URGENCY SUB-COMMITTEE**

## CONSTITUTION

3 Members of the Council.

## TERMS OF REFERENCE

All matters within the terms of reference of the Audit and Performance Committee and its Sub-Committees provided that the Urgency Sub-Committee is satisfied that the matter is urgent and cannot wait until the next relevant meeting.

# HEALTH & WELLBEING BOARD TERMS OF REFERENCE

## 1. VISION OF THE BOARD

1.1 The Westminster Health and Wellbeing Board will provide strong and effective leadership across the local authority and NHS partners by setting a clear direction, across traditional boundaries, to deliver change and fresh thinking. The Board will work in partnership to address health issues that cannot be tackled by one organisation alone and to undertake joint commissioning where this will deliver the best value for money for investment.

1.2 The Board will recognise that one size does not fit all and will ensure that services are designed to reflect the changing needs of the individuals and communities they serve and are easy to access. The Board will be accountable to those they serve through elected members, and will act as a champion for the voice of those who live, work and play in Westminster.

1.3 The broad vision for the Board is that it will Promote joint commissioning, pooled budget arrangements and other resources, where all parties agree this makes sense, in order to deliver more effective and efficient local services Agree strategic priorities for the borough and push progress against these priorities further and faster, ensuring 'silo working' and conflict are removed. Organisational boundaries should not be hindrance to developing effective solutions. demonstrate clear leadership, championing the work and aims of the Board, and act as the key link between their own organisation or department and the Board, ensuring consistency and effective communications. Work with other Health and Wellbeing Boards within the tri-borough arrangements, as well as regional and national partners, where this is identified as the most appropriate way of tackling issues and addressing need.

## 2. RESPONSIBILITIES

2.1 To provide strategic and organisational leadership in developing the vision for health and wellbeing in Westminster and mobilising, co-ordinating and ensure commissioning decisions are based on clear evidence for improving outcomes.

2.2 To mobilise, coordinate and share resources from its membership, and from others, to deliver agreed priorities.

2.3 To oversee the production and use of a programme of Joint Strategic Needs Assessments (JSNA) by the local authority and the Clinical Commissioning Groups, and ensure that the needs of the local population are properly assessed and captured. The JSNA should aim to map assets as well as needs for local areas and become embedded across the commissioning process of all systems. To also oversee the production and maintenance of the Pharmaceutical Needs Assessment (PNA)

2.4 To develop a concise and outcome-focussed Joint Health and Wellbeing Strategy (JHWS) derived from the JSNA which identifies areas where partnerships

working across health, social care and the wider determinants could better address the need of the local population. The strategy will provide both: An overarching framework within which more detailed and specific commissioning plans by CCGs, LAs and others are developed; and Specific actions where the Health and Wellbeing Board can drive progress further and faster.

2.5 To ensure that all commissioners (the local authority, the CCGs and the National Commissioning Board) meet their legal obligations by having regard to the JSNA and JHWS when commissioning and developing their commissioning plan.

2.6 To have a formal role in authorising the local CCG(s), ensure that their plans take account of the JSNA and JHWS, and contribute to the NHS Commissioning Board (NHSCB) annual assessment of CCGs.

2.7 To put in place sub-groups to the Board, as and when required, to support the delivery of its functions.

2.8 To promote and encourage integrated working across the wider determinants of health including alignment between organisation and department plan and strategies and to actively consider the use of the Health Act flexibilities (integrated provision, pooled budgets and joint commissioning)

2.9 To ensure effective engagement and involvement – staff, provider, public, patient, service user and community – at all stages of the process. The HWB and CCGs have a statutory duty to involve those who live and work, in the preparation of the JSNA and JHWS.

2.10 To develop an annual workplan, as well as short, medium and long term goals that have measurable outcomes aligned to the NHS, Public Health and Social Care outcomes frameworks, so that the performance of the Board and others with responsibility to deliver aspects of the Joint Health and Wellbeing Strategy can be measured, and is accountable.

2.11 To produce an annual report on progress, and to consider other reports identifying health and social care needs such as the annual report produced by the Director of Health.

2.12 To ensure, through Board members, alignment between organisation and department plans and strategies. Also to have sight of and influence the strategies and key policies of the local NHS, the Council, the Community and Voluntary sector, and other partner agencies.

2.13 To respond to any relevant local, regional or national consultations on major service redesigns for health, care and wellbeing related service provided within the borough or that affect the borough.

2.14 To promote and support opportunities for tri-borough commissioning of health, care and wellbeing where this is the most appropriate way of addressing issues.



2.15 To meet the new efficiency and austerity agenda by ensuring value for money across all services.

### 3. MEMBERSHIP:

3.1 Meetings of the Board will be chaired by the relevant Cabinet Member.

3.2 The Health and Wellbeing Board has the power to appoint additional persons to the Board as it deems appropriate.

3.3 Members of the Board shall each name a deputy who will have the authority to make decisions in the event that they are unable to attend a meeting.

3.4 The Vice-Chair of the Health and Wellbeing Board will be a representative of a Westminster CCG.

3.5 Only the following members of the Board, are considered voting members (see 8.2): The relevant cabinet members of the local authority (or their deputies) The clinical representative of Central London Clinical Commissioning Group (of their deputy) The clinical representative of West London Clinical Commissioning Group (or their deputy); and The representative from Westminster Healthwatch (or their deputy)

3.6 In attendance at meetings in an advisory capacity if required will be: Chairman of the Operational Group Chairmen of any designated Delivery Groups Chairman of NHS Sub-cluster Accountable officer for the CWHH CCG collaborative Consultant in Public Health Strategic Directors of WCC Health and Wellbeing Board Support Team

### 4. ACCOUNTABILITY

4.1 The Board will be accountable for delivery of improved health, wellbeing and social care outcomes as defined in DH guidance to: the community it serves its members which include elected members the NHS Commissioning Board (from April, 2013)

### 5. SCRUTINY

5.1 Independent scrutiny of the HWB performance, functions and outcomes will be provided by the relevant Policy and Scrutiny Committees of the Council.

### 6. RELATIONSHIP BETWEEN THE HEALTH AND WELLBEING BOARD AND THE HEALTH AND WELLBEING OPERATIONAL GROUP

6.1 The Health and Wellbeing Board will be responsible for setting the strategic vision and priorities for Health and Wellbeing in Westminster.

6.2 The Health and Wellbeing Operational Group will be responsible for developing and delivering the Health and Wellbeing Strategy, informed by the Joint Strategic Needs Assessment, on behalf of the Board.

6.3 The Board will receive quarterly exception reports from the Health and Wellbeing Operational Group setting out milestones, deliverables and risk. An annual progress report will also be provided to the Board.

## 7. MEETING FREQUENCY

7.1 The Board shall meet four times within a financial year.

7.2 An extraordinary meeting will be called when the Chairman considers this necessary and/or in the circumstances where the Chairman receives a request in writing by 50% of the membership of the Board.

## 8. CONDUCT OF MEETINGS

8.1 The quorum for meetings shall be 50% of the membership, including at least one representative from each of the 4 voting members:

8.2 Decisions shall be made on the basis of consensus wherever this is possible. Where a consensus is not possible then decisions will be made on the basis of a show of hands of those who are identified below as being sanctioned to vote on the Health and Wellbeing Board. Those sanctioned to vote are: The two cabinet members of the local authority (or their deputies) A clinical representative from Central London Clinical Commissioning Group (or their deputy) A clinical representative from West London Clinical Commissioning Group (or their deputy); and A representative of Westminster Healthwatch (or their deputy)

8.3 Health and Wellbeing Board meetings will be conducted in line with the standard Access to Information rules that apply to all Council committees and therefore, unless exemptions apply which allow for business to be conducted in private, will be held in public.

8.4 The Chair shall sign off the minutes as a true and accurate record of the meeting and these will be available on the website of the council.

8.5 Agendas and supporting papers will be available on the websites of the council one week before the meeting.

8.6 The terms of reference will be reviewed annually.

**4. RULES OF PROCEDURE GOVERNING APPLICATIONS  
AND OTHER PERMISSIONS UNDER THE LICENSING  
ACT 2003 AND GAMBLING ACT 2005**

## **1. Interpretation**

- 1.1 These Procedures describe the way in which hearings will be conducted by the City of Westminster under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) [see SI 2005 No. 78] (hereafter referred to as the LA03 Hearings Regulations) and the Gambling Act 2005, as set out in the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements (England and Wales) Regulations 2007 [see SI 2007 No 173] (hereafter referred to as the GA05 Hearing Regulations).
- 1.2 In these procedures-
- “the 2003 Act” means the Licensing Act 2003;
  - “the 2005 Act” means the Gambling Act 2005;
  - “the Authority” means Westminster City Council as Licensing Authority
  - “applicant” means a person who makes an application under the 2003 or 2005 Acts;
  - “Chair” means a Member of the Licensing Committee appointed by that Committee to be the presiding Member of that Committee or Sub-Committee;
  - “Committee” means a licensing committee established under Section 6(1) of the Licensing Act 2003;
  - “hearing” means the hearing referred to in column 1 of the table in Annex A and Annex D;
  - “interested party” means a party prescribed in Section 13(3) of the 2003 Act and Section 158 of the 2005 Act;
  - “notice of hearing” means a notice given to a party in accordance with Regulation 6(1) LA03 Hearing Regulations and Regulation 5 GA05 Hearing Regulations;
  - “party” means those to whom a notice of hearing is to be given in accordance with the 2003 and 2005 Acts Regulations;
  - “responsible authority” means an authority named or described within Section 13(4) of the 2003 Act and Section 157 of the 2005 Act, (as amended); such as police, fire authority, licensing authority etc.
  - “Sub-Committee” means a Licensing Sub-Committee established under Section 9(1) of the Licensing Act 2003.

## **2. Introduction**

- 2.1 These Procedures take into account the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 and the Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007. The Procedures also include the 2003 Act time limits within which a hearing must commence (see Annex A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 2.2 The LA03 Hearings Regulations (Regulation 21) and GA05 Hearing Regulations (Regulation 3(2)) provide that a Licensing Authority shall, subject

to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.

- 2.3 These Procedures, therefore, set out the way in which the City of Westminster Licensing Sub-Committee Meetings will be conducted under the 2003 and 2005 Acts, following the requirements of the Hearings Regulations. Wherever appropriate have included the procedures followed successfully over a number of years in Westminster for conducting hearings to determine similar licences under previous legislation.
- 2.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the LA03 Hearings Regulations (Regulation 31) and GA05 Hearing Regulations (Regulation 16(1)).

### **3. Composition of Sub-Committee**

- 3.1 The Sub-Committee will, usually consist of three members appointed from members of the Authority's Licensing Committee by the Director of Legal and Administrative Services in accordance with his delegated powers. No business shall be transacted unless at least two members of the Sub-Committee are present and able to form a properly constituted Sub-Committee. In cases of equality of votes, the chairman shall have a second or casting vote. A Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally sit to consider that item on the agenda.

### **4. Timescales**

- 4.1 Most hearings under the 2003 Act must take place within 20 working days from the last date in which representations can be made.

- 4.2 Exceptions under the 2003 Act:

Within 10 working days from the day after the day the Authority receives the notice for a review of the premises licence following a closure order.

within 7 working days from the day after the end of the period within which the police can object to:

- a temporary event notice (note: the police must give notice of their objection within 48 hours of being given a copy of the notice); and

within 5 working days beginning with the day after the end of the last date for the police to object to:

- an interim authority notice (note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

- 4.3 For applications made under the 2005 Act the Authority must commence a hearing as soon as reasonably practicable after the expiry of the statutory period where representations can be received.

- 4.4 These matters are more fully set out in LA03 Hearings Regulations (Regulation 5 and Schedule 1 to those Regulations (attached as Annex A)) and GA05 Hearing Regulations (Regulation 4(1)).

Note: Where a hearing will take more than one day the authority must arrange for the hearing to take place on consecutive days (Regulation 5 of the LA03 Hearing regulations and Regulation 4(2) of the GA05 Hearing Regulations).

- 4.5 Timescale for notice of hearings to be given  
In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held (Regulation 2 of the Amendment to Regulation 6 of the LA03 Hearing Regulations (SI 78 2005) and Regulation 5(c) of the GA05 Hearing Regulations) (SI 173 2007).

- 4.6 Exceptions under the 2003 Act:

- review of a premises licence following a closure order
- At least two days' notice must be given to the parties to a hearing for determination of:
- police objection to a interim authority notice
  - police objection to a temporary event notice

## **5. Persons who must be notified of a hearing**

- 5.1 The persons who must be notified of a hearing are set out below as a summary (See Schedule 2 of the LA03 Hearings Regulations attached as Annex B and Schedule 1 of the GA05 Hearing Regulations attached as Annex D):

- any applicant for any licence, provisional statement or review made under the provisions of the 2003 and 2005 Acts
- the premises user who submitted the temporary event notice under the 2003 Act.
- any person who has made relevant representations about an application for a licence or provisional statement or review (note, for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c), 31(6) & 51(4) of the 2003 Act or, any representation deemed frivolous, vexatious or will certainly not influence the authority's determination of the application under Sections 162(3) of the 2005 Act, the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection under the 2003 Act to:
  - a person specified as a Designated Premises Supervisor
  - an interim authority
  - transfer of a premises licence
  - transfer of a club premises certificate
  - a temporary event notice
  - a personal licence
- Any holder of a premises licence or club premises certificate where:

- application is made for review

## **6. Information to be provided in a notice of hearing**

- 6.1 The information that must be included in a notice of hearing relating to an application or notice under the 2003 Act includes (Regulation 7 of the LA03 Hearing Regulations):
- The procedure to be followed at the hearing;
  - The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
  - The ability to give further information in support of their application where the Authority has sought clarification;
  - The right to question any other party – if given permission by the Authority;
  - The right to address the Authority; (see 4.1)
  - Notice of any particular on which the Authority will want clarification at the hearing;
  - The consequences if a party does not attend or is not represented at the hearing;
  - For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.  
(See also Schedule 3 attached as Annex C for documents that must accompany notice of a hearing)
- Note: Regulation 8 of the LA03 Hearing Regulations sets out the action to be taken following receipt of a notice (attached as Annex E).
- 6.2 The information and documentation that must accompany the notice of hearing relating to an application under the 2005 Act includes (Regulation 6 of the GA05 Hearing Regulations):
- the consequences where a party informs the Sub-Committee that they do not wish to attend or be represented at the hearing, or fails to inform the Sub-Committee whether they will attend or be represented at the hearing;
  - the requirements imposed on the Sub-Committee in conducting a hearing as set out in Regulations 8 and 9 of the GA05 Hearing Regulations;
  - the consequences where a party has indicated that they wish to attend or be represented at the hearing, but fail to attend or be represented at the hearing;
  - the procedure to be followed at the hearing;
  - the time limit and method by which a party should inform the Sub-Committee that they wish to attend or address the hearing or that they wish to be assisted or represented by another person;
  - the time limit and method by which a party should inform the Licensing Authority that they will want to call a witness to give evidence at the hearing, and the matters in relation to which they wish that witness to give evidence;
  - the time limit and method by which a party should inform the Sub-Committee that they wish to withdraw their representations;
  - the time limit and method by which a party should inform the Sub-Committee that they are willing to consent to the application being determined without a hearing;
  - the matters on which the Sub-Committee considers at the time that it will want clarification at the hearing from a party.

## **7. Failure of Parties to Attend the Hearing**

- 7.1 If a party has informed the Authority that will not be attending or be represented at the hearing it may proceed in their absence. (Regulations 20 of the LA03 and 10(1) of the GA05 Hearing Regulations)
- 7.2 If a party does not give notice that will not be attending but fails to attend and is not represented the Authority may either:
- (a) adjourn the hearing if it considers it to be necessary in the public interest or
  - (b) hold the hearing in the party's absence
- 7.3 If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.
- 7.4 If the Authority adjourns the hearing to a specified date it must forthwith (as soon as reasonably practicable under the GA05 regulations) notify the parties of the date, time and place to which the hearing has been adjourned.

## **8. Procedure at the Hearing**

- 8.1 The usual order of proceedings will be as set out in sub-paragraphs (i) to (v) below. The Sub-Committee will allow, at its discretion, the parties an equal maximum time period in which to give further information in support of their application, representation or response, where the Authority has given notice that it will seek clarification on that point at the hearing (or, where permission has been given to call any further persons, to give supporting evidence – see paragraph 8.4(b) below).
- 8.2 The Sub-Committee may allow the parties to question any other party (if permission is given – see paragraph 8.4(c) below) and, to address the relevant committee, but will seek in all cases to avoid repetition of matters (whether included in written material or otherwise), irrelevancy or any abuse of procedure.
- 8.3 At the beginning of the hearing the procedure that will be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.
- (i) The Chair will begin by explaining how the proceedings will be conducted, and any time limits that will apply to the parties to the application.
  - (ii) Introduction by an Officer of the Licensing Service including a summary of the application.
  - (iii) The Sub-Committee will then consider any requests by a party for any other person to appear at the hearing. Such permission will not be



unreasonably withheld provided a proper notice has been given

(iv) A summary of the nature and extent of the application by the applicant or their representative. It should be brief, avoid repetition of material already made available to the Sub-Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's 2003 Act Licensing Policy or 2005 Act Statement of Principles, where appropriate. That will be followed by the evidence of any person who has been given permission by the Sub-Committee to give supporting evidence on behalf of the applicant.

(v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Sub-Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Sub-Committee to give supporting evidence on behalf of the objectors.

(vi) A summary of the reasons for making representations by or on behalf of any responsible authority. This should be brief and avoid any repetition of information already made available to the Sub-Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Sub-Committee to give supporting evidence on behalf of the responsible authority.

(vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

8.4 The following requirements of the LA03 and GA05 Hearing Regulations will also be followed by the relevant committee:

(a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.

(b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.

(c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

8.5 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- (a) before the hearing (subject to Rule 8.6 below), or
  - (b) with the consent of all other parties, at the hearing (Regulations 18 of the LA03 and 9(4), (b), (i) & (ii) of the GA05 Hearing Regulations)
- 8.6 (a) All documentary or other information produced by a party in support of their application must be received by the Authority by noon on the third working day before the day of the hearing at which it is to be relied upon. Any information submitted after this date and time must include a covering note explaining why the information has been submitted late and why the information should be taken into account.
- (b) The Sub-Committee will consider any documentary or other information submitted late at its discretion. The Sub-Committee may decide to adjourn the hearing so as to allow Members and any other party time to consider the information and that may involve an adjournment to another date. The Sub-Committee may decide not to consider the information.
- 8.7 The Sub-Committee when determining an application or notice under the provisions of the 2003 Act will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:
- (a) their application, representation or notice, or
  - (b) in the case of another person, the application representation or notice of the party requesting their appearance and
  - (c) the promotion of the licensing objectives, or
  - (d) in relation to a hearing to consider a notice given by the Police the crime prevention objective.
- (Regulation 19 of the LA03 Hearing Regulations)
- 8.8 A 2003 Act hearing shall take place in public save that:
- (a) The Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance; it is in the public interest to do so.
  - (b) The parties and any person representing them may be excluded in the same way as another member of the public
- 8.9 A 2005 Act hearing shall take place in public save that:
- (a) The Sub-Committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all circumstances of the case, having regard to
    - (aa) any unfairness to a party that is likely to result from a hearing in public; and
    - (bb) the need to protect as far as possible, the commercial or other legitimate interests of a party. (Regulation 8)
- 8.10 The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:
- refuse to permit the person to return; or

- allow them to return only on such conditions as the Authority may specify.

- 8.11 Any person so excluded may, before the end of the hearing, submit to the Sub-Committee in writing, any information which, would have been entitled to give orally had not been required to leave and the Sub-Committee will take that information into account in reaching a determination of the application or review (Regulations 25 of the LA03 and 11(3), (a) (b) of the GA05 Hearing Regulations).
- 8.12 Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow the hearing to be carried out effectively.

## **9. Determination of Application – Time Limits**

- 9.1 For applications determined under the 2003 Act the Sub-Committee must make its determination at the conclusion of the hearing where the application is for:
- (a) A review of a premises licence following a closure order (2003 Act)
  - (b) A personal licence by the holder of a justices licence (2003 Act)
  - (c) A counter notice following police objection to a temporary event notice (2003 Act)
- 9.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.
- 9.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing) then the Authority must make its determination for 2003 Act applications, reviews and notices within 10 working days beginning with the day the authority gives such notices to the parties.

## **10. Record of Proceedings**

- 10.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

## **11. Irregularities**

- 11.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations
- 11.2 Where the Authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such

steps, as it thinks fit to cure the irregularity, before reaching its determination. (Regulations 31 & 32 of the LA03 and Regulation 16 of the GA05 Hearing Regulations)

- 11.3 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority. (Regulations 33 of the LA03 and 17 of the GA05 Hearing Regulations)

## **12. Notices**

- 12.1 Any notices under these Regulations will be given in writing. Such a notice may be sent electronically, providing:
- (a) it can be accessed by the recipient in a legible form;
  - (b) it is capable of being reproduced as a document for future reference;
  - (c) the recipient has agreed in advance to receive it in such form;
  - (d) a copy is sent in documentary form forthwith to the recipient.

## **13. Appeals**

- 13.1 Either those who have made an application or those who have made representations on an application may have the right to appeal the Authorities decision to the Magistrates Court (Section 181, Schedule 5 LA05 and Section 206 GA05).
- 13.2 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision. Notice of Appeal must be given to City of Westminster Magistrates Court.
- 13.3 The address and contact details for Westminster Magistrates Court are;

Westminster Magistrates Court  
181 Marylebone Road  
London  
NW1 5BR  
DX 120551 Marylebone 9  
Telephone: 020 3126 3050  
Fax: 020 3126 3052  
Court opening times: 09:15 to 16:30 Monday to Friday

Please note that the information relating to Westminster Magistrates Court was correct when this document was produced. You should check the HM Courts website at [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk) to ensure that the correct contact details are used.

# Annex A

## Licensing Act 2003 (Hearings) Regulations 2005

### SCHEDULE 1

### Regulation 5

	Column 1	Column 2
	<b>Provision under which hearing is held.</b>	<b>Period of time within which hearing must be commenced.</b>
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).
5.	Section 44(5)(a) (determination of application for transfer premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).
9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).

12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).
13.	Section 121(6)(a) determination of application for grant of personal licence)	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).
14.	Section 124(4)(a)(convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).
15.	Section 167(5)(a)(review of premises licence following closure order)	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	10 working days beginning with the day after the end of the period within which a chief officer of police may give notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8).

## Annex B

### Licensing Act 2003 (Hearings) Regulations 2005

#### SCHEDULE 2

#### Regulation 6

	Column 1	Column 2
	<b>Provision under which hearing is held.</b>	<b>Period of time within which hearing must be commenced.</b>
1.	Section 18(3)(a) (determination of application for premises licence).	(1) The person who has made the application under section 17(1); (2) Persons who have made relevant representations as defined in section 18(6).
2.	Section 31(3)(a)(determination of application for provisional statement).	(1) The person who has made the application under section 29(2).; (2) Persons who have made relevant representations as defined in section 31(5).
3.	Section 35(3)(a) (determination of application to vary premises licence).	(1) The holder of the premises licence who has made the application under section 34(1); (2) Persons who have made relevant representations as defined in section 35(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	(1) The holder of the premises licence who has made the application under section 37(1); (2) Each chief officer of police who has given notice under section 37(5). (3) The proposed individual as referred to in section 37(1).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (2) Each chief officer of police who has given notice under section 42(1); (3) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	(1) The person who has given notice under section 47(2); (2) Each chief officer of police who has given notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	(1) The holder of the premises licence in respect of which the application has been made; (2) Persons who have made relevant representations as defined in section 52(7); (3) The person who has made the application under section 51(1).
8.	Section 72(3)a) (determination of application for club premises certificate).	(1) The club which has made the application under section 71(1);

		(2) Persons who have made relevant representations ad section 72(7).
9.	Section 85(3)(a) (determination of application to vary club premises certificate).	(1) The club which has made the application under section 84(1); (2) Persons who have made relevant representations as defined in section 85(5).
10.	Section 88(2) (determination of application for review of club premises certificate).	(1) The club which holds the club premises certificate in respect of which the application has been made; (2) Persons who have made relevant representations as defined in section 88(7); (3) The person who has made the application under section 87(1).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	(1) The premises users; (2) Each chief officer of police who has given notice under section 104(2).
12.	Section 120(7)(a) (determination of application for grant of personal licence).	(1) The person who has made the application under section 117(1); (2) The chief officer of police who has given notice under section 120(5).
13.	Section 121(6)(a) (determination of application for renewal of personal licence).	(1) The person who has made the application under section 117(1); (2) The chief officer of police who has given notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	(1) The holder of the licence in respect of which the notice has been given; (2) The chief officer of police who has given notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order)	(1) The holder of the premises licence in respect of which the review has been made; (2) Persons who have made relevant representations as defined in section 167(9).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	(1) The person who has made the application under paragraph 2(2) of Schedule 8; (2) Each chief officer of police who has given notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	(1) The club which has made the application under paragraph 14(2) of Schedule 8; (2) Each chief officer of police who has given notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	(1) The person who has made the application under section 117 to which paragraph 23(1) of Schedule 8 applies; (2) The chief officer of police who has given notice under paragraph 25(2) of Schedule 8.



## Annex C

### Licensing Act 2003 (Hearings) Regulations 2005

#### SCHEDULE 3

#### Regulation 7

	Column 1	Column 2	Column 3
	<b>Provision under which hearing is held.</b>	<b>Person to whom notice of hearing is given</b>	<b>Documents to accompany notice of hearing</b>
1.	Section 18(3)(a) (determination of application for premises licences).	The person who has made the application under section 17(1).	The relevant representations as defined in section 18(6) which have been made.
2.	Section 31(3)(a) (determination of application to vary premises licence).	The person who has made the application under section 29(2).	The relevant representations as defined in section 31(5) which have been made.
3.	Section 35(3)(a) (determination of application to vary premises licence).	The holder of the premises licence who has made the application under section 34(1).	The relevant representations as defined in section 35(5) which have been made.
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	(1) The holder of the premises licence who has made the application under section 37(1); (2) The proposed individual as referred to in section 37(1).	The notices which have been given under section 37(6).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (2) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.	The notices which have been given under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	The person who has given notice under section 47(2).	The notices which have been given under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	The holder of the premises licence in respect of which the application has been made.	The relevant representations as defined in section 52(7) which have been made.
8.	Section 72(3)(a) (determination of application to vary club premises certificate).	The club which has made the application under section 71(1).	The relevant representations as defined in section 72(7) which have been made.
9.	Section 85(3)(a) (determination of application to vary club premises certificate).	The club which has made the application under section 84(1).	The relevant representations as defined in section 85(5) which have been made.

10.	Section 88(2) (determination of application for review of club premises certificate).	The club which holds the club premises certificate in respect of which the application has been made.	The relevant representations as defined in section 88(7) which have been made.
11.	Section 120(7)(a) (determination of application for grant of personal licence)	The person who has made the application under section 117(1).	The notice which has been given under section 120(5)
12.	Section 121(6)(a) (determination of application for renewal of personal licence).	The person who has made the application under section 117(1).	The notice which has been given under section 121(3).
13.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	The holder of the licence in respect of which the notice has been given.	The notice which has been given under section 124(3).
14.	Section 167(5)(a) (review of premises licence following closure order).	The holder of the premises licence in respect of which the review has been made.	The relevant representations as defined in section 167(9) which have been made.

## Annex D

### Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007

#### SCHEDULE 1

**Regulation 4(1), 5(1), 6(2)**

Column 1	Column 2	Column 3
<b>Procedure in relation to which a hearing is required to be held</b>	<b>Persons to whom notice must be given</b>	<b>Copies of documents to accompany the notice of hearing</b>
Application for a premises licence under section 159	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application to vary a premises licence under section 187	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a premises licence to be transferred under sections 188 and 189	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the application  (3) The licensee	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a licence to be reinstated under sections 195 and 196	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a provisional statement under section 204	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the application	Representations in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Review of a premises licence under section 201	(1) The applicant  (2) Any person who has made (and not withdrawn) representations about the review  (3) The licensee	Representations made in relation to the review (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the review)

## Annex E

### Licensing Act 2003 (Hearings) Regulations 2005

#### Regulation 8

<b>Action Following receipt of notice of hearing</b>	
1.	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a).	whether they intend to attend or be represented at the hearing;
(b).	whether they consider a hearing to be unnecessary.
2.	In a case where a party wishes any other person (other than the person he intends to represent them at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
3.	In the case of a hearing under:
(a).	section 48(3)(a) (cancellation of interim authority notice following police objection), or
(b).	section 105(2)(a) (counter notice following police objection to temporary event notice),
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
4.	In the case of a hearing under:
(a).	section 167(5)(a) (review of premises licence following closure order),
(b).	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
(c).	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
(d).	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
5.	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

# DELEGATED AUTHORITY TO OFFICERS

## 26.1 OFFICER DELEGATIONS

1. Executive Directors are authorised to exercise those powers and duties of the Council in relation to the service and activities for which they are responsible which are not reserved to the Council, the Cabinet/a Cabinet Member or a Committee, and to exercise the professional and managerial responsibilities of their posts. They are accountable to the elected members of the Council for the efficient and economic discharge of these responsibilities. Elected members are accountable to the public and are responsible for all major matters which impact upon the public in the course of the Council exercising its powers and duties. Accordingly, officers may exercise only the powers delegated to them and these are exercisable only subject to:
  - (a) the strategies, policies, and priorities determined by the members of the Council
  - (b) The Council's Financial Regulations, Procurement Code and Human Resources Policies
  - (c) referral to the appropriate body of members for consultation or decision on all matters of public controversy or undecided matters of policy or substantial change from previous practice or which involve difficult or major issues relating to (a) above where custom and practice or initial consultation with elected members indicates that such referral should take place;
  - (d) members with specific functional responsibilities and ward members receiving appropriate information about the exercise of the powers;
  - (e) compliance with the law and all policies, regulations, orders, codes, protocols, and similar documents approved by the Council, Cabinet, the Standards Committee or a Regulatory Committee;
  - (f) consultation with appropriate officers and proper regard to any advice given;
  - (g) other specific delegations in this scheme or similar documents to another officer;
  - (h) decisions by the Chief Executive or the Monitoring Officer on whether officers should exercise any delegated power.
2. In addition to the constraints referred to above, there are limitations upon all delegated powers. In particular there is no delegation to officers of:

- (a) matters specifically reserved to members by resolution of Council or the Cabinet;
  - (b) approval to exceed the provision in the revenue or capital budgets for their service responsibilities;
  - (c) decisions on permanent savings in the budget to achieve the Council's policies;
  - (d) the making of an order for the compulsory acquisition of land;
  - (e) the right to make appointments to posts which are made by the Appointments Sub-Committee unless these are delegated in accordance with Standing Orders.
  - (f) the right to determine a major employee re-organisation.
3. The Chief Executive shall have all the powers delegated to other Executive Directors and any other Senior Leadership Team (SLT) Member (n.b. a SLT Member is defined as an officer graded at Band 6 or 7) and shall be able to exercise those powers in their place. In the event of any dispute or doubt as to the delegated powers of any other Executive Director or SLT member, the Chief Executive shall have the power to determine which officer is to exercise the power.
4. Where any new power or duty, other than a local choice function, is conferred on the Council the exercise of that power or duty will be undertaken by the relevant Executive Director or other SLT Member until such time as the allocation of responsibility has been determined by the Leader or the Council.
5. Where a function is delegated to an Executive Director, the Executive Director may (without prejudice to the ability to authorise any member of staff to exercise the function) sub-delegate the function to any other SLT Members who may then exercise the function themselves. Where any function is sub-delegated in this way the Executive Director retains the power to recall any matter for decision. \_
6. 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.
7. The Leader and each Cabinet Member shall, in accordance with the Executive Procedure Rules, retain the right to amend or withdraw any delegation upon written notice to the Chief Executive.

## **26.2 DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE, EACH EXECUTIVE DIRECTOR AND OTHER MEMBERS OF THE SENIOR LEADERSHIP TEAM**

Officers graded at Band 6 or 7 are the SLT Members (this list is subject to change) and is not attached to this version. It is available upon request).

Any power delegated to the Chief Executive or any other SLT member may also be exercised by any member of staff who has been so authorised by the Chief Executive or SLT member to whom the said power is delegated, or in their absence or non-availability, by the officer having responsibility for the relevant Unit.

The Chief Executive, each Executive Director and other members of the SLT are delegated the following authority:

1. To exercise the powers conferred on members of the Senior Leadership Team by Standing Orders, Financial Regulations, the Human Resources Policies and the Procurement Code.
2. To serve notices requiring the provision of information relating to ownership and use of property where such information is necessary to enable the Council to discharge or exercise any of its functions and the Council is authorised by statute to require such information.
3. To give officers within their respective departments authority to enter premises where powers of entry are conferred by Act of Parliament for the purposes of fulfilling a function for which the SLT member concerned is the proper officer.
4. To authenticate documents as a proper officer in accordance with Section 234(1) of the Local Government Act 1972, or with any enactment within the meaning of Section 234(3) of that Act, where such document is required in connection with a function for which the officer concerned is the proper officer, and to authorise members of staff to affix a facsimile stamp bearing his name for the purpose of the said authentication.
5. To appoint, promote and dismiss permanent and temporary staff (save in relation to posts to which appointments are made by the Appointments Sub-Committee) within approved budgets and in accordance with the Council's agreed Human Resources Policies.
6. To remunerate and reward staff within approved budgets and in accordance with the Council's Human Resources Policies, consulting where appropriate with the Director of People Services.
7. To exercise the discretionary powers in relation to all staffing matters detailed in the Human Resources Policies.
8. 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.

9. To authorise officers of the Council to give evidence on behalf of the Council in Courts or at Inquiries or before Tribunals or Committees.
10. To consult with all relevant bodies on behalf of the Council on a scheme or proposal that has been included in the budget and has received approval by the Cabinet or the Cabinet Member.
11. To respond to consultation documents where the response would not amount to a key decision.
12. To approve, in consultation with the Chief Executive where appropriate, foreign visits by officers, in accordance with Council policy (detailed in the Code of Governance).
13. To approve bids to undertake cross boundary tendering in accordance with agreed policy and criteria.
14. To undertake, in consultation with the Director of People Services, 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.
15. To make staff redundant and incur the payment of appropriate redundancy and severance payments in carrying out minor re-organisations within their departments where the staff directly affected by the re-organisation do not exceed a maximum of 25 posts.
16. To enter into arrangements or do anything else which is considered necessary or expedient in respect of functions delegated to them.
17. To deal with lost and uncollected property.

### **26.3 DELEGATED AUTHORITY TO THE CHIEF EXECUTIVE**

1. To be the Head of the Paid Service in accordance with the Local Government and Housing Act 1989.
2. To have authority over all other officers including the exercising and allocation of any of the delegations set out in this schedule 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 Director is involved the officer shall have full opportunity to explain his or her views.
- 3. Subject to observance of the appropriate procedures and rights of appeal, to decide disciplinary, incapability and salary related matters concerning Executive Directors.
- 4. To appoint or remove officers from the Senior Leadership Team.
- 5. Now General Power of Competence under Localism Act 2011.
- 6. To be responsible for the preparation of key corporate policies as appropriate, for agreement by the Cabinet, Council and Cabinet Members.
- 7. To co-ordinate, direct and monitor the Council's initiatives to achieve efficiency and best value in the delivery of its functions.
- 8. To designate "Authorised Officers" for the purposes of particular statutory functions from time to time and so authorise them to perform the functions of such a person under relevant legislation.
- 9. To discharge the functions of Electoral Registration Officer and in the case of local elections, Returning Officer.
- 10. To be responsible for the Council's responsibilities as an employer under Health and Safety legislation.
- 11. To approve requests for the flexible retirement scheme submitted by Executive Directors, in consultation with the relevant Cabinet Members.
- 12. To exercise the functions of the proper officer for the purposes of matters relating to formal Member decision making and meetings as included in the Council's Constitution.
- 13. To act as proper officer for functions within the Council's Constitution, including notification of meeting, except as otherwise stated as part of this Scheme of Delegations.
- 14. To be responsible for the Council's functions relating to Human Resources.
- 15. To ensure that the Council's Scrutiny Officer has sufficient resources to support the Council's Policy and Scrutiny function.

**26.4 DELEGATED AUTHORITY TO THE OFFICER APPOINTED TO EXERCISE THE DUTIES OF THE OFFICER APPOINTED FOR THE PURPOSES OF SECTION 151 OF THE LGA 1972 (THE EXECUTIVE DIRECTOR OF FINANCE AND RESOURCES**

1. To be responsible for the proper administration of the financial affairs of the Council in accordance with section 151 of the Local Government Act 1972, which responsibility shall include 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 Pension Fund Committee), the payment of creditors and the payment of salaries, wages, pension scheme benefits and gratuities.
2. To be responsible for the provisions of the Accounts and Audit Regulations 2011 (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.
3. To be the Proper Officer of the Council in relation to the following statutory provisions:

Local Government Act 1972

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

Local Government (Miscellaneous Provisions) Act 1976

- (c) 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

- (d) Section 114-115 - the officer responsible for reporting on unlawful expenditure decisions or where expenditure exceeds the resources available.
4. To exercise the functions of the Council relating to procurement.
5. To exercise the functions of the Council relating to information technology including the development thereof across the Council.

6. To be responsible for the Council's Corporate Contact Centre Contract.

## **7. GENERAL PROPERTY MATTERS**

### **7.1 DISPOSALS:**

7.1.1 To approve the terms for adhoc disposal of non Housing Revenue Account (HRA) land and property subject to paragraph 7.5.1 below and any statutory requirements, provided that:-

- (a) in the case of freehold land and/or property , the premium does not exceed £500,000; and
- (b) in the case of leasehold transactions :
  - (i) the premium does not exceed £500,000; and
  - (ii) the rental value does not exceed £150,000 per annum; and
  - (iii) the term does not exceed 25 years

### **7.2 ACQUISITIONS:**

7.2.1 To approve the terms of adhoc purchases and taking of leases and licences of land and property subject to paragraph 7.5.1 below and any statutory requirements provided that :

- (i) in the case of freehold land and/or property being acquired, the premium does not exceed £500,000; and
- (ii) in the case of leasehold transactions the premium rental does not exceed £500,000 and the rental does not exceed £150,000 p.a.

7.3 To select tenants for land and property (other than dwellings to be let on secure tenancies) subject to consultation with the relevant Cabinet member in any case where any change of policy or special difficulty are anticipated.

### **7.4 PROPERTY MANAGEMENT :**

7.4.1 To deal with all questions of routine property management, including power to:-

- (a) approve and grant licenses and tenancies where the value does not exceed £125,000 pa;
- (b) serve statutory notices relevant to routine property management including dealing with the release of charges, restrictions or notices against properties which are no longer valid, or have expired or have been redeemed;

- (c) authorise and pay discretionary contributions towards trade/loss and/or removal expenses in accordance with good estate management practice;
- (d) repair, maintain and improve property and other works for which appropriate budgetary provision has been made;
- (e) enter into deeds of variation or release in respect of all interests where any adjustment to the rental value does not exceed £150,000 p.a. or where any premium does not exceed £500,000;
- (f) settle dilapidation claims where appropriate budgetary provision exists;
- (g) give consent in the Council's capacity as Corporate Landlord to applications by tenants under the terms of any lease subject to 7.2 above ;
- (h) agree rent reviews and sign Rent Review Memoranda; and
- (i) deal with the surrender and/or renewal or regearing of leases where any adjustment to the rental does not exceed £150,000 p.a. or where any premium does not exceed £500,000.

7.4.2 To be responsible for the management and maintenance of commercial property within the Housing Revenue Account and to work closely with the Executive Director of Environment, Climate and Public Protection to ensure effective management information is in place and that the use of HRA commercial property aligns with Council and HRA objectives and to deal with all routine property management as set out in Section 27.7 paragraph 27.4 below

7.4.3 To apply for Planning and listed building consents for the Council's corporate property portfolio.

7.4.4 To be responsible for the Council's function in relation to Total Facilities Management.

## **7.5 REGENERATION/DEVELOPMENT SCHEMES**

7.5.1 All decisions relating to disposals and acquisitions that relate to a regeneration/development schemes are not covered by this Scheme of Delegation and should be determined by the Cabinet or relevant Cabinet member with appropriate budgetary provision being made.

- 7.5.2 Subject to 7.5.1 above to authorise routine acquisition settlements (to include disturbance claims, Home Loss payments, Loss Payments, discretionary payments and compensation);
- 7.5.3 Subject to 7.5.1 above to authorise the submission of compulsory purchase compensation claims to the Lands Tribunal to determine the compensation payable for schemes
- 7.5.4 Subject to 7.5.1 above to enter into any associated planning agreements as landowner (non Housing Revenue Account land) that relate to a regeneration/development scheme

## **26.5 DELEGATED AUTHORITY TO THE EXECUTIVE DIRECTOR FOR CHILDREN'S SERVICES**

1. To exercise the functions of the Council in the following areas
  - (a) Education services — the Council's functions in its capacity as a local education authority, except those excluded under Section 18(3) of the Children Act 2004 (namely certain functions relating to further 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 for children and young people leaving care.
  - (c) Health services — any health related functions exercised on behalf of an NHS body under Section 75 of the National Health Service Act 2006, insofar as they relate to children and young people.
  - (d) Inter-agency co-operation — the Council's functions as set out in the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation as set out below:
    - (i) Section 10— the duty to make and sustain arrangements to promote co-operation between the Council and its partner organisations to improve the well being of children in the Council's area.
    - (ii) Section 11 — the duty to make arrangements to ensure the Council's functions are discharged having regard to the need to safeguard and promote the welfare of children.
    - (iii) Section 12— any duty to establish, maintain and operate a database of basic information on all children in the authority or, if the duty to create a database or databases is placed on another body, to participate in its operation.

- (iv) Sections 13, 14, 15 and 16 — the duty to establish a Child Safeguarding Practice Review Panel, as per the Children and Social Work Act 2017, to co-ordinate and ensure the effectiveness of board members' activities for the purpose of safeguarding and promoting the welfare of children in the Council's area.
- (v) Section 17— the duty to prepare and publish a Children and Young People's Plan to set out the Council's strategy for discharging their functions in relation to children and young people.
- (vi) Section 20(8)(d) — subject to consultation and the laying of Regulations, responsibility for co-ordinating statements of proposed action in light of a Joint Area Review report, in consultation with partners. In addition, the Strategic Director will also exercise a key role in monitoring and evaluating implementation of the proposed action.

(e) Other responsibilities

- (i) Seconding at least one children's social worker and at least one education professional to the Youth Offending Team as required by section 39(5) of the Crime and Disorder Act 1998.
  - (ii) The duty to promote the educational achievement of looked after children. This function is set out in the Children Act 1989 (as amended); and
  - (iii) The duty to provide the Secretary of State, if s/he so directs, with information on individual children. This function is set out in the Children Act 1989 (as amended).
  - (iv) To exercise all functions, powers and duties of a Children's Services Authority under all relevant legislation including, but not limited to, Education, Social Services and Health functions.
2. To be responsible for the Council's functions relating to Libraries Services (including Registrars).

**26.6 DELEGATED AUTHORITY TO EXECUTIVE DIRECTOR FOR ADULT SOCIAL CARE AND PUBLIC HEALTH**

- 1. To exercise the functions of the Council with regard to the delivery of those functions in respect of adults as set out in Schedule 1 of the Local Authority Social Services Act 1970 (as amended), other than those functions for which the Executive Director for Children's Services is responsible.

2. To safeguard vulnerable adults within Westminster and secure provisions of first steps and personal and community development learning to meet the needs of the community.
3. To arrange for the effective operation of the Council's responsibilities for the assessment, purchase and provision of social care services for adults including people 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.
4. To implement the Council's statutory functions as follows:
  - to assess the need for, and where necessary provide, services and/or residential accommodation for those suffering from a disability, including a mental disability Care Act 2014.
  - To assess, and plan to meet, the needs of carers of vulnerable people.
  - To act as the "appropriate adult" within the definition of the Police and Criminal Evidence Act in relation to persons with a mental disorder (which may include a learning disability) who are detained at a police station.
5. To promote the welfare and independence of, and ensure the protection of vulnerable adults through the assessment of needs, the arrangement of services and the provision of facilities and assistance, where appropriate, to meet those needs, for adults and their carers.
6. To lead and direct the continuous improvement of high quality services to the customer in the area of Council funded care and housing support services to adults. These services include:
  - Development of commissioned care and support services (including supported accommodation)
  - Delivery of Assessment/Care management services (including ensuring resource allocations to eligible individuals to buy care and support)
  - Performing management and quality assurance (including information, IT and contract monitoring).
7. To represent the Council in joint planning with the Health Service and other agencies.
8. To exercise all functions, powers and duties of an Adult Services Authority under all relevant legislation including, but not limited to Social Services,

safeguarding adults, Deprivation of Liberty, Mental Health services and Health functions.

9. To be authorised to agree expenditure on relevant public health budgets subject to each Bi-Borough Council's constitution. Such authority can be delegated in writing to others.
10. To lead on personnel decisions, including recruitment, appraisal and disciplinary decisions, subject to the City of Westminster's internal procedures only.
11. To report to the Chief Executive and relevant Cabinet Members and relevant Scrutiny Committee. To provide policy advice, if requested, to any political party represented on any of the participating councils.
12. To exercise the statutory functions of the Director of Public Health. These responsibilities may be delegated in writing to named public health consultants in each borough.
13. To report to each Council's Chief Executive on the performance of the function and to support the accountability of the Chief Executive for grant expenditure.
14. To ensure that each participating authority has up-to-date plans, meeting statutory requirements and the demands of good practice.
15. To be the officer responsible for leadership, expertise and formal advice on all aspects of the Public Health Service.
16. To provide advice to the public in any period where local health protection advice is likely to be necessary or appropriate, in conjunction with each Council's communications team.
17. To promote action across the life course, working together with local authority colleagues such as the Executive Director of Children's Services and the Executive Director of Adult Social Care and with NHS colleagues.
18. 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.
19. To work with local criminal justice partners and Police and Crime Commissioners to promote safer communities.
20. To work with the wider civil society to engage local partners in fostering improved health and wellbeing.
21. 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 commission appropriate services accordingly.



22. To take responsibility for the management of their authority's public health services with professional responsibility and accountability for their effectiveness, availability and value for money.
23. To play a full part in their authority's action to meet the needs of vulnerable children, for example by linking effectively with the Local Safeguarding Children Board.
24. To contribute to and influence the work of NHS Integrated Care Partnerships ensuring a whole system approach across the public sector.

#### **26.7 DELEGATED AUTHORITY TO EXECUTIVE DIRECTOR FOR ENVIRONMENT, CLIMATE AND PUBLIC PROTECTION**

1. To be responsible for the Council's licensing and registration functions generally, including specifically (but not exclusively) functions under the Licensing Act 2003, the Gambling Act 2005 and the City of Westminster Act 1999.
2. To be responsible for the Council's on-street and parking enforcement services.
3. To be responsible for the Council's functions with respect to the regulation of waste management and the cleansing of streets.
4. To take enforcement action on behalf of the Council in relation to waste management, licensing, transportation and highways, trading standards, food hygiene, weights and measures and consumer protection legislation.
5. To be responsible for environmental enforcement activities
6. To be responsible for the Council's functions with respect to arboriculture excluding those tree matters which are dealt with by the Council exercising its powers as a local planning authority.
7. To be responsible for all matters relating to the Council's functions relating to crime and disorder. To 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).
8. To be responsible for the Council's obligations as an enforcing authority in respect of Health and Safety legislation.
9. To be responsible for all of the Council's public conveniences.

10. To be responsible for emergency planning and business continuity and undertake executive powers where necessary in the event of a civil emergency.
11. To incur, in exercise of their role as Emergency Controller, un-programmed revenue expenditure in the event of an emergency affecting the Council, or the inhabitants of its area, up to a maximum of £500,000 in dealing with the immediate effects of the emergency, subject to such expenditure being reported at the first opportunity to the Leader.
12. To be responsible for enforcement action in relation to transportation and highways.
13. To be responsible for the functions of the Council as Road Traffic Authority including its powers under the Road Traffic Regulation Act 1984.
14. To be responsible for the Council's functions under the New Roads and Street Works Act 1991.
15. To either act as the Traffic Manager for purposes of Section 17 (2) of the Traffic Management Act 2004 or to appoint a person to exercise the Network Management Duty under Section 16 of the Act.
16. To exercise the functions of the Council as highways, transportation and road traffic authority, and in particular:
  - (a) the functions of the Council under the Highways Act 1980.
  - (b) the functions of the Council as road traffic authority including its powers under the Road Traffic Regulation Act 1984.
  - (c) the Council's functions under New Roads and Street Works Act 1991.
17. To be responsible for the Council's functions in relation to area working and neighbourhoods.
18. To be responsible for highways maintenance and the management of utility works.
19. To be responsible for the management of the Council's highways contracts and the delivery of an annual programme of works.
20. To be responsible for highways planning functions including the stopping up of the highway in connection with a development which has the benefit of planning permission.
21. To maintain and manage an inventory of the Council's highways and public realm assets.

22. To implement and enforce all housing and all environmental health legislation in relation to residential properties, including the service of notices and authorization of proceedings.
23. To take enforcement action on behalf of the Council in relation to Coronavirus legislation (excluding the issuing a direction in respect of premises, events and public outdoors spaces, and any other action directed by the Leader as being reserved for the Leader or Cabinet).
24. To work with local criminal justice partners and Police and Crime Commissioners to promote safer communities.
25. To arrange for the effective performance and development of the Council's duties and services and provide advice in relation to environmental matters.

## **26.8 HOUSING REVENUE ACCOUNT**

1. To 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 and to commission housing work to Westminster Community Homes in accordance with the Council's Procurement Policy.

### **2. DISPOSALS**

- 2.1 To approve terms for the adhoc disposal of HRA land and property, subject to paragraph 27.5 below and subject to any statutory requirements, provided that:
  - (a) in the case of freehold land and/or property being disposed, the premium does not exceed £500,000; and
  - (b) in the case of leasehold transactions;
    - i) the premium does not exceed £500,000; and
    - ii) the rental value does not exceed £150,000 p.a.; and
    - iii) the term does not exceed 25 years.

### **3 ACQUISITIONS**

- 3.1 To approve terms for the purchase and taking of leases and licences of HRA land and property, subject to paragraph 27.5 below and any statutory requirements:
  - a) in the case of freehold land and/or property being acquired, the premium does not exceed £500,000; and
  - b) in the case of leasehold transactions the premium rental does not

exceed £500,000 and the rental does not exceed £150,000 p.a.

#### **4. PROPERTY MANAGEMENT (HRA properties)**

- 4.1 To deal with all questions of routine property management and to take action and operate all legislative and administrative procedures in relation to housing where it is the responsibility of the Council, including but limited to:-
- (a) approve and grant licences, tenancies where the rental value does not exceed £150,000 p.a.;
  - (b) to offer and dispose of Council properties for sale to tenants who qualify for the Right to Buy Scheme.
  - (b) serve statutory notices relevant to routine property management including dealing with the release of charges, restrictions or notices against properties which are no longer valid, or have expired or have been redeemed;
  - (c) authorise and pay discretionary contributions towards trade/loss and/or removal expenses in accordance with good estate management practice;
  - (d) repair, maintain and improve property and other works for which appropriate budgetary provision has been made;
  - (e) enter into deeds of variation or release in respect of all interests where any adjustment to the rental value does not exceed £150,000 p.a. or where any premium does not exceed £500,000;
  - (f) settle dilapidation claims where appropriate budgetary provision exists;
  - (g) give consent in the Council's capacity as Housing Landlord to applications by tenants under the terms of any lease subject to 26.8.1 above;
  - (h) deal with the surrender and/or renewal or re-gearing of leases where any adjustment to the rental does not exceed £150,000 p.a. or where any premium does not exceed £500,000.
  - (i) The management and maintenance of commercial property within the Housing Revenue Account will be undertaken by Executive Director of Finance and Resources as set out in Section 26.4 paragraph 7.4.2 above.

## **5. REGENERATION/DEVELOPMENT SCHEMES**

- 5.1 All decisions relating to disposals and acquisitions that relate to a regeneration/development schemes are not covered by this Scheme of Delegation and should be determined by the Cabinet or relevant Cabinet member with appropriate budgetary provision being made.
- 5.2 Subject to 7.5.1 above to authorise routine acquisition settlements (to include disturbance claims, Home Loss payments, Loss Payments, discretionary payments and compensation);
- 5.3 Subject to 7.5.1 above to authorise the submission of compulsory purchase compensation claims to the Lands Tribunal to determine the compensation payable for schemes
- 5.4 Subject to 7.5.1 above to enter into any associated planning agreements as landowner that relate to a regeneration/development scheme

## **6. GENERAL HOUSING MATTERS**

- 6.1 To approve applications for housing and allocate properties in accordance with the Council's established allocations policy and the granting of temporary accommodation units.
- 6.2 To be responsible for commissioning services relating to the management and maintenance of the Council's housing stock, including responsibility for the efficiency and sustainability of the Housing Revenue Account and investment strategies relating to the suitability, condition and sustainability of the City Council's housing stock.
- 6.3 To approve changes in charges for housing HRA and HGF rents, service charges, heating and hot water charges, including refunds, reductions and waivers as appropriate.
- 6.4 To agree the provision of payment arrangements and options for the recovery of lessees major works.
- 6.5 To waive or reduce lessee's contributions towards service charges or cap service contributions, and to proceed with capital funded schemes where there are irrecoverable elements as a consequence of the existence of pre 1987 leases.
- 6.6 To authorise the commencement of legal proceedings, including to recover the possession of temporary accommodation, following non-payment of rent or other breach of tenancy conditions.
- 6.7 To make arrangements to provide housing advice and support to prevent homelessness including the letting, managing, repairing etc. of residential

units and associated commercial property; where households are assessed as being homeless in line with current legislation, make arrangements to provide temporary accommodation until permanent housing is secured.

- 6.8 To arrange for the use of properties, on a short term lease basis, and other forms of temporary accommodation for use by homeless people.
- 6.9 To develop and commission a wide range of housing services for vulnerable adults, in particular those that prevent and alleviate rough sleeping and reduce the impact of associated street activity.
- 6.10 To approve and pay and recover monies in the making of mandatory and discretionary housing assistance.
- 6.11 To be responsible for funding to other housing related programmes e.g. advice services; handyperson schemes.
- 6.12 To apply for Planning and listed building consents for the Council's HRA property portfolio and, in accordance with the provisions of the Financial Regulations and corporate accounting procedure, deal with appropriations.

## **26.9 DELEGATED AUTHORITY TO EXECUTIVE DIRECTOR FOR REGENERATION, ECONOMY AND PLANNING**

### **1.PLANNING**

- 1.1 To exercise the functions of the Council relating to town and country planning and building control, but not the strategic functions relating to strategy or policy which fall to the Executive Director of Innovation and Change.
- 1.2. In the case of town and country planning, the delegation includes power to determine all applications for planning permission, advertisement consent, Listed Building Consent, application for the Council's own development and Hazardous Substances consent except where:
  - (a) In the opinion of the Executive Director the application is of a major controversial or sensitive nature or where in his/her opinion the decision would be contrary to approved planning policies.
  - (b) It is proposed to grant permission, consent or approval and in the opinion of the Executive Director, this would set a significant precedent or have a significant impact on the environment.
  - (c) It is proposed to grant permission, consent or approval for an application which is the subject of objection on planning (or hazardous substances) grounds. Referral to Planning Applications Sub-

Committee will not be required where in the opinion of the Executive Director:

- (i) The objection(s) are not specifically related to the application;  
OR
  - (ii) The objection(s) can be met by the imposition of conditions;  
OR
  - (iii) The proposal complies with adopted policies or standards.
- (d) In the opinion of the Executive Director it would be inappropriate to do so having regard to representations received from one or more elected Members of the Council or to the nature and extent or representations made in response to public consultation.
- (e) The application is for the Council's Own Development and the Executive Director is minded to refuse permission or consent, in which case the application shall be referred to the Planning Applications Sub-Committee for determination.
- (f) The application has been submitted by or on behalf of an elected Member of the Council (or their spouse/partner) or by any officer (or their spouse/partner).
- (g) An elected Member of the Council has requested that the application be determined by the Planning Applications Sub-Committee.
- 1.3 To determine applications under the Planning Acts which, before the expiry of the period allowed for the submission of observations by public advertisement or notice, have been considered by Planning Applications Sub-Committee, or where either Committee has deferred a decision but has authorised the Executive Director to make the final decision.
- 1.4 To determine applications to discharge conditions imposed on a grant of planning permission, listed building consent or on permission for the Council's own development. These will be dealt with by a Planning Applications Sub-Committee unless the Executive Director is of the opinion that no significant issues are raised.
- 1.5 To deal with applications where it is found that permission is not required in that they do not constitute development or relate to development.
- 1.6 To issue a "screening opinion" (to determine whether a project requires an Environmental Impact Assessment) and/or a "scoping opinion" (on the impacts and issues that the EIA should address) as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 except where:
- (a) in the opinion of the Executive Director the proposed project is of a major controversial or sensitive nature

- (b) in the opinion of the Executive Director it would be inappropriate to do so having regard to representations received from one or more elected Members of the Council or to the nature and extent of representations made in response to public consultation.

- 1.7 To arrange for the effective performance and development of the Council's duties and services and provide advice in relation to environmental matters.
- 1.8 To be responsible for the Council's functions under the Building Act 1984 and the London Building Acts.
- 1.9 To be responsible for investigation into and take action to enforce against unauthorised development under the planning acts and the control of advertisements.

## **2. ECONOMY AND SKILLS**

- 2.1 To be responsible for the Council's functions relating to Westminster Adult Education Service.
- 2.2 To be responsible for the Council's functions relating to economic development and regeneration.
- 2.3 To be responsible for the Council's BIDS Programme.
- 2.4 To be responsible for Council initiatives relating to the alleviation of worklessness.

## **3. REGENERATION/DEVELOPMENT**

- 3.1 To be responsible for the Council's functions relating to economic development and regeneration.
- 3.2 To approve the allocation of funds to individual projects to be supported through regeneration programmes.
- 3.3 To be responsible for new affordable housing supply including supporting social housing providers to develop social housing and making investment decisions from the Affordable Housing Fund.

## **26.10 DELEGATED AUTHORITY TO THE EXECUTIVE DIRECTOR OF INNOVATION AND CHANGE**

- 1. To be responsible for communications (both internal and external) marketing and the Council's lobbying strategy.



2. To ensure the facilitation of the Council's Local Strategies Partnership and that this meets Government requirements.
3. To be responsible for the Council's functions relating to neighbourhoods to approve the allocation of funds to individual projects to be supported through regeneration programmes such as the single regeneration budget and Neighbourhood Renewal and Neighbourhood Management Programmes.
4. To deal with all matters under the Localism Act (2011) and Neighbourhood Planning Regulations (2012) relating to neighbourhood planning and any other neighbourhood planning matters that are not delegated to the Cabinet Member; in particular:
  - The consideration and approval or refusal of applications for the designation a neighbourhood area;
  - The consideration and approval or refusal of applications for designation as a representative neighbourhood forum
  - The consideration of applications to develop a statutory neighbourhood plan
5. To be responsible for the Ward Budget programme including the allocation of funds and projects agreed as part of the Ward Budget programme where the expenditure is less than £10,000.
6. To act as the editor of the Westminster Reporter.
7. To act as the Council spokesperson when engaging with the media and to authorise other officers in the Policy, Performance and Communications department.
8. To prepare the Community Strategy and other key corporate policies as appropriate for agreement by the Council.
9. To determine the Council's policies in respect of the use of social media.
10. To be responsible for the management and content strategy of the Council's website.
11. To be responsible for, in consultation with, the relevant Cabinet Member, the Council's Open Forums, Neighbourhood Forums and Parish Councils – in respect of both their creation and any work going forward required to support and facilitate their activities.
12. To exercise the functions relating to the Council's Customer Services programme.
13. To be responsible for the functions of the Council's special events team and their activities.

14. To be responsible for all matters relating to the Local Development Plan which are not delegated to the Cabinet Member.
15. To be responsible for parks and cemeteries.
16. To be responsible for the Council's functions relating to Sports and Leisure.

**26.11 DELEGATED AUTHORITY TO THE EXECUTIVE DIRECTOR –  
CORPORATE SERVICES (and MONITORING OFFICER)**

1. To act as Solicitor to the Council and to institute, conduct and, where appropriate, defend and settle disputes, criminal and civil legal proceedings and claims concerning the Council's responsibilities and interests except in relation to those covered by the Council's insurance policies.
2. To take any action in order to protect the interests of the Council or of any person or property to whom, or for which, the Council has responsibility or in order to give legal effect to any decision or action properly taken by the Council or a Committee or person on behalf of the Council.
3. To be the Monitoring Officer and the Proper Officer in accordance with the Local Government Acts (except where signified under other officer delegations).
4. To lodge appeals against any adverse finding against the Council in any tribunal or court.
5. To 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 Corporate Leadership Team member acting within delegated power.
6. To make appointments to outside bodies in accordance with the nominations made by the Party Whips.

## **CHAPTER 7 – ETHICAL GOVERNANCE**

# **1. STANDING ORDERS RELATING TO THE HOLDING OF OFFICE OF COUNCILLOR**

## **1.1. QUALIFICATION OF COUNCILLORS**

A person shall, unless disqualified by virtue of the Local Government Act 1972 or any other enactment, be qualified to be elected and to be a member of the Council if they are a British subject or a citizen of the Republic of Ireland and on the relevant day they have attained the age of 18 years and:

- i. They are and thereafter continues to be a local government elector for the City of Westminster; or
- ii. They have during the whole of the twelve months preceding that day occupied as owner or tenant any land or other premises in the City of Westminster; or
- iii. their principal or only place of work during the twelve months preceding that day has been in the City of Westminster; or
- iv. They have during the whole of the twelve months preceding that day resided in the City of Westminster.

For the purposes of the above, "relevant day" in relation to any candidate means the day on which they are nominated as a candidate and also, if there is a poll, the day of election.

## **1.2. ORDINARY DAY OF ELECTION OF COUNCILLORS**

The ordinary day of election of councillors shall be the first Thursday in May or such day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding the first year in which the order is to take effect. (L.G.A. 1972 Sect. 43 and Sch.2).

## **1.3. TERM OF OFFICE OF COUNCILLORS**

The term of office of councillors shall be four years and they shall retire together in every fourth year after election on the fourth day after the ordinary day of election of councillors. The newly elected councillors shall come into office on the day on which their predecessors retire. (L.G.A 1972, Sch.2 as amended by the London Councillors Order 1976).

## **1.4. RESIGNATION OF LORD MAYOR OR COUNCILLOR**

A person elected to the office of Lord Mayor or Councillor may at any time resign their office by written notice signed by them and delivered to the Chief

Executive and their resignation shall take effect upon the receipt of the notice by the Chief Executive (L.G.A. 1972, Sect.84.)

#### **1.5. FILLING OF CASUAL VACANCY IN OFFICE OF COUNCILLOR**

A casual vacancy occurring in the office of councillor an election to fill the vacancy shall be held -

- i. In a case in which the High Court or the Council have declared the office to be vacant, within thirty-five days from the date of the declaration:
- ii. In any other case, within thirty-five days after notice in writing of the vacancy has been given to the Chief Executive by two local government electors for the City.

(The period of thirty-five days specified in paragraphs (i) & (ii) above excludes any Saturday and Sunday, Christmas Eve, Christmas Day, Good Friday and any bank holiday).

The day of election to fill a casual vacancy shall be fixed by the returning officer (the Chief Executive).

Where a casual vacancy in any such office occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election shall not be held to fill the vacancy unless on the occurrence of the vacancy the total number of unfilled vacancies in the membership of the Council exceeds one third of the whole number of members; and where an election is not held, the vacancy shall be filled at the next ordinary election. (L.G.A. 1972, Section 89).

#### **1.6. ELECTION AND TERM OF OFFICE OF LORD MAYOR**

The Lord Mayor shall be elected annually by the Council from among the councillors of the City. The Lord Mayor shall, unless they resign or becomes disqualified, continue in office until their successor becomes entitled to act as Lord Mayor. During their term of office the Lord Mayor shall continue to be a member of the Council notwithstanding the statutory provisions relating to the retirement of councillors. (L.G.A. 1972, Sch.2).

If, apart from paragraph (1) of this Standing Order, the Chair at the annual meeting would have ceased to be a member of the Council, they shall not be entitled to vote in the election of Lord Mayor; except that in the case of equality of votes they shall give a casting vote. (L.G.A. 1972, Sch.2.)

## **1.7. FILLING OF CASUAL VACANCY IN THE OFFICE OF LORD MAYOR**

On a casual vacancy occurring in the office of Lord Mayor, an election to fill the vacancy shall be held not later than the next ordinary meeting of the Council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary meeting of the Council, and shall be conducted in the same manner as an ordinary election. (L.G.A. 1972, Section 88).

## **1.8. MEMBERS OF COUNCIL NOT TO BE APPOINTED**

A person shall, so long as they are, and for twelve months after they cease to be, a member of the Council, be disqualified for being appointed by the Council to any paid office, other than to the office of Lord Mayor or Deputy Lord Mayor. (L.G.A. 1972, Section 116).

## **1.9. ACCEPTANCE OF OFFICE**

The person elected to any of the following offices, that is to say, the office of Lord Mayor, Deputy Lord Mayor or councillor shall not, unless they have made a declaration of acceptance of office in a form prescribed by rules made by the Secretary of State, and the declaration has within two months from the date of the election been delivered to the Chief Executive, act in the office except for the purpose of taking such a declaration.

If such a declaration is not made and delivered to the Chief Executive within the appointed time, the office of the person elected shall at the expiration of that time become vacant. (L.G.A, Section 83).

## **1.10. VACATION OF OFFICE**

If a member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, or in the case of a Cabinet Member, any meeting of the Cabinet, 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.

Attendance as a member at a meeting of any Committee or Sub-Committee of the Council, or at a meeting of any joint Committee, joint board or other body by whom for the time being any of the functions of the Council are being discharged, or who were appointed to advise the Council on any matter relating to the discharge of its functions, and attendance as representative of the Council at a meeting of any body of persons, shall be deemed to be attendance at a meeting of the Council. In the case of a Cabinet Member, the discharge of an executive function by that Cabinet member acting alone, or attendance at a meeting of a Cabinet Committee shall be deemed to be attendance at a meeting of the Cabinet.

A member of any branch of His Majesty's naval, military or air forces when employed during war on any emergency on any naval, military or air force service, and a person whose employment in the service of His Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle them to relief from disqualification on account of absence, shall not cease to be a member of the Council by reason only of a failure to attend meetings of the Council, or of a failure to attend meetings of the Cabinet, if the failure is due to that employment.

#### **1.11. CONTINUITY OF BUSINESS AFTER AN ELECTION**

During the period between the retirement of Councillors following City Council Elections and the next Annual Meeting of the Council, the following provisions shall apply –

- i. A Temporary Planning Applications Committee shall meet as required with authority to deal with all matters within the Terms of Reference of the Planning Applications Committee. The Committee will consist of four Members of the Council appointed by the Chief Executive.
- ii. A Temporary Licensing Committee shall meet as required with authority to deal with all matters within the Terms of Reference of the Licensing Sub-Committee. The Committee will consist of three members of the Council appointed by the Chief Executive.
- iii. The Chief Executive shall be authorised, to determine the time, date and place of the meeting of a Temporary Committee and to convene the meeting and in appointing Members shall have regard to the proportion of Members of political groups on the Council.
- iv. Except where they are inconsistent with the temporary arrangements set down herein, all Standing Orders shall apply to Temporary Committees.
- v. Where the Chief Executive is of the opinion that a matter requires a decision between the date of the City Council elections and the next Annual Meeting of the Council (whether the matter relates to an executive function or a non-executive function) they may, having consulted such Members of the Council as they consider appropriate make the decision and authorise on an exceptional basis the relevant action.

#### **1.12. DISCLOSURE OF INTERESTS**

Members and Co-opted Members who have a Disclosable Pecuniary Interest, or any other interest required to be disclosed under the Council's Code of Conduct for Members, shall, having disclosed the interest and subject to the below provisions, withdraw from the meeting room for the duration of the consideration of the item of business including the debate and any related vote.

In cases where members of the public are allowed to attend a meeting Members and Co-opted Members may with the consent of the Chair of the meeting, attend the meeting for the purposes of making representations, answering questions or giving evidence relating to the matter. Once the Member has finished making their submission, or the Chair of that meeting decides that they have finished, the Member must leave the room and may not remain in the room during the discussion or vote on the matter.

Members must not when they have a Disclosable Pecuniary Interest seek to view or listen to the proceedings from the public gallery.



## **2. MEMBER CONDUCT**

### **2.1. STANDARDS FUNCTIONS**

The Council is required by Section 27 of the Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the authority and in discharging this duty to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. By Section 28 of the Localism Act 2011 the Council is required to have arrangements under which allegations can be investigated and arrangements under which decisions on allegations can be made.

### **2.2. STANDARDS COMMITTEE**

The Council has established a Standards Committee whose terms of reference are set out in Chapter 5 of this Constitution.

The Committee has 5 elected members appointed by Council.

The Chair is elected by the Committee and the rules of politically proportionality apply with substitutes being permitted.

Council shall appoint Independent Person(s) in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011 and the Independent Persons shall be invited to attend meetings of the Standards Committee.

The Council's Independent Persons will be invited to attend meetings, subject to the agreement of the Committee.

The Standards Committee will have the following roles and functions:

- i. To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.
- ii. To advise the City Council on the adoption or revision of a Code of Conduct for Members.
- iii. Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.
- iv. To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members.
- v. To monitor the operation of Code of Conduct for Members.
- vi. Consider reports referred to the Committee by the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.
- vii. Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required.

- viii. Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall only have power to impose any sanction authorised by law).
- ix. Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken, if any.
- x. To the extent allowed by the Law, grant dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct.
- xi. To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

### **2.3. WESTMINSTER CITY COUNCIL - MEMBERS' CODE OF CONDUCT**

#### **(1) Application**

This Code of Conduct applies to Members and Co-opted Members whenever they are acting in a capacity as a Member or Co-opted Member of the City Council. The definitions in Appendices 1 and 2 apply to this Code. This Code is consistent with the Nolan Principles as explained in Appendix 3.

#### **(2) General Conduct**

Members must comply with the following standards of conduct/behaviour.

- i. To act solely in the public interest and never to improperly confer or seek to confer an advantage or disadvantage on any person or act to gain financial or other material benefits for themselves, their family, friends or close associates.
- ii. Not to place themselves under a financial or other obligation to any individual or organisation that might seek to influence them in the performance of their official duties.
- iii. To make all decisions on merit when carrying out public duties, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits.
- iv. To be accountable for their decisions to the public and to co-operate fully with whatever scrutiny is required.
- v. To be open and as transparent as possible about decisions and actions and the decisions and actions of the City Council and to give reasons for those decisions and actions
- vi. To register and declare any disclosable pecuniary interests and to declare non-disclosable pecuniary interests and non-pecuniary interests, as set out in this Code.

- vii. When using or authorising the use by others of the resources of the City Council , to ensure that such resources are not used improperly for political purposes (including party political purposes) and to have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- viii. To behave in accordance with all legal obligations, alongside any requirements contained within the City Council's policies, protocols and procedures, including on the use of the Council's resources and dealing with confidential information appropriately.
- ix. To value and respect colleagues, staff, partners and the public, engaging with them in an appropriate manner that underpins the mutual respect between them that is essential to good local government, and not to act in a manner that could be deemed to be bullying, harassment or intimidation.
- x. To promote and support high standards of conduct through leadership and by example, including not acting in a manner which could be seen to bring the Council or the role of the Councillor into disrepute.

### (3) Interests

#### i. Notification of Interests

You must, within 28 days of your election or appointment to office (where that is later):

- (a) notify the Monitoring Officer of your disclosable pecuniary interests that are notifiable under the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012, for inclusion in the register of interests; and
- (b) notify the Monitoring Officer in writing of the details of any other non-disclosable pecuniary interest or non-pecuniary interest, where they fall within the descriptions in 29.10.

#### ii. Disclosable Pecuniary Interests

Members must make an oral declaration of the existence and nature of any disclosable pecuniary interest at any meeting at which they are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent.

“Meeting” means any meeting, either formal or informal, organised by or on behalf of the City Council.

It is a criminal offence for a Member to:

- (a) Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- (b) Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.

- (c) Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that they have disclosed to a meeting.
- (d) Participate in any discussion or vote on a matter in which they have a disclosable pecuniary interest.
- (e) As an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, to fail to notify the Monitoring Officer within 28 days of the interest.
- (f) To knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

### iii. Other Interests

In addition to the requirements of Section 29.8, if Members attend a meeting at which any item of business is to be considered and they are aware that they have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in that item, they must make an oral declaration of the existence and nature of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.

Members have a “non-disclosable pecuniary interest” or a “non-pecuniary interest” in an item of business of the City Council where –

- (a) a decision in relation to an item of that business might reasonably be regarded as affecting their well-being or financial standing or that of a member of their family, or a person with whom they have a close association, to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward for which they have been elected, or
- (b) it relates to or is likely to affect any of the interests listed in the Table in Appendix 1 of this Code but in respect of a member of the Member’s family (other than a “relevant person”) or a person with whom they have a close association.

Members must also include for inclusion in the register of interests:

- (a) any personal interest in any business of your authority where either it relates to or is likely to affect:
  - i. any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
  - ii. any body –
    - exercising functions of a public nature;
    - directed to charitable purposes; or

- one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
  - iii. any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- (b) all training undertaken to prepare for their role as Councillor or to develop their role, including dates where possible.

#### (4) Gifts and Hospitality

Members must, within 28 days of receipt, notify or arrange for the Monitoring Officer to be notified in writing of any gift, benefit or hospitality with a value in excess of £25 which they have accepted as a Member from any person or body other than the City Council.

The Monitoring Officer will place the contents of the notification on the register of interests of the relevant Member.

Where the Monitoring Officer is of the view that such gift or hospitality is clearly below £25 in value they may decline to include this on the register.

In accepting any gift, benefit or hospitality Members should consider the following principles to guide them, as suggested by the Committee in Standards in Public Life:

- “Purpose” – acceptance should be in the interests of Council departments and should further Council objectives”
- “Proportionality” – hospitality should not be over-frequent or over-generous. Accepting hospitality frequently from the same organisation/ individual may lead to an impression that the organization/ individual is gaining influence. Similarly, hospitality should not seem lavish or disproportionate to the nature of the relationship with the provider
- “Avoidance of conflict of interest” Members should consider the provider’s relationship with the Council, whether it is bidding for work or grants or being investigated or criticized, and whether it is appropriate to accept an offer from a taxpayer-funded organization”

#### (5) Sensitive Interests

In cases where they have an interest and the nature of the interest is such that the Member and Monitoring Officer both consider that disclosure of the details of the interest could lead to the Member or a person connected with the Member being subject to violence or intimidation:

- the register of interests will not include details of the interest but may state that the Member has an interest about which details have been withheld and
- where required by this Code to declare the interest at a meeting, the Member may only be required to declare the fact that s/he has they have an interest in the matter.

(6) Dispensations from the Restriction from Participating and Voting in Meetings

This provision applies to a situation where a Member or Members have an interest, which prevents them from taking part in a decision but they feel they ought to be able to participate or that it is necessary to allow them to participate in the interests of proper decision making, as explained below.

One or more Members may apply for a dispensation from the requirement not to participate in or vote in respect of a matter at a meeting by written request to the Monitoring Officer, so that they are able to participate in respect of that matter at the meeting.

The Monitoring Officer (or in his/her absence the Deputy Monitoring Officer) may agree the dispensation on behalf of the City Council, where they consider, after having had regard to all relevant circumstances such as follows:

- i. that without the dispensation the number of persons prohibited by section 31(4) of the Act from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- ii. that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- iii. that granting the dispensation would be in the interests of persons living in the Council's area,
- iv. that without the dispensation each member of the Cabinet would be prohibited by section 31(4) of the Act from participating in any particular business to be transacted by the Cabinet , or
- v. that it is otherwise appropriate to grant a dispensation.

If granted the dispensation will be granted by the Monitoring Officer in writing and citing the ground or grounds on which it is agreed and it will be published on the Council's website within 7 days of the decision.

The dispensation must be for a fixed time not exceeding a period beyond the next City Council elections and will normally cover only a specific matter or meeting.

A Member may seek a review of the Monitoring Officer's decision not to grant a dispensation to the Standards Committee. The Monitoring Officer may choose to refer any application for dispensation to the Standards Committee and may, in doing so, consult one of the Council's Independent Persons. The Monitoring Officer may also, if they choose, consult one of the Council's Independent Persons prior to granting a dispensation referred above.

## MEMBER CODE OF CONDUCT – APPENDIX 1

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011. Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 **as** either the interest of the Member or the interest of a relevant person **and** the Member is aware that the other person has an interest as follows-

<b><i>Interest</i></b>	<b><i>Prescribed Description</i></b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority- (a) Under which goods or services are to be provided or works are to be executed; and (b) Which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any license (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge) (a) The landlord is the relevant authority; and (b) The tenant is a body in which the relevant person



	has a beneficial interest
Securities	<p>Any beneficial interest in securities of a body where –</p> <p>(a) That body (to M’s knowledge) has a place of business or land in the area of the relevant authority</p> <p>(b) Either –</p> <p>(i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

## **Definitions**

*“the Act” means the Localism Act 2011;*

*“body in which the relevant person has a beneficial interest” means a firm in which the 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;*

*“bullying” may be characterised as: offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticize unfairly or injure someone;*

*“director” includes a member of the committee of management of an industrial and provident society;*

*“harassment” maybe characterised as unwanted conduct which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual;*

*“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;*

*“M” means a member of a relevant authority; “member” includes a co-opted member;*

*“Non-Pecuniary interest” is an interest which is not pecuniary (as defined above) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon the Member’s judgement of the public interest;*

*“relevant authority” means the authority of which M is a member;*

*“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;*

*“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;*

*“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.*

The following principles, commonly known as the “Nolan Principles”, do not form part of the Code of Conduct but are included as an Appendix simply to remind Members of the ethical standards expected of public office holders.

**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.

**MEMBER CODE OF CONDUCT – APPENDIX 4 - Declaring Interests Flowchart,  
Questions to ask yourself**

Breaching those parts identified as a disclosable pecuniary interest is potentially a criminal offence

**Helpful Reminders for Members**

- Is your register of interests up to date?
- In particular have you declared to the Monitoring Officer all disclosable pecuniary interests?
- Have you checked the register to ensure that they have been recorded correctly?

## When should you declare an interest at a meeting?

- What matters are being discussed at the meeting : or
- If you are a Cabinet Member making decisions other than in Cabinet **what matter is before you for single member decision?**

↓

**Does the business to be transacted at the meeting**

- Relate to; or
- Is likely to affect

**any of your registered interests** Disclosable Pecuniary Interests include your interests and those of:

- Your spouse or civil partner
- A person you are living with as husband/wife or as a civil partner

where you are aware that this other person has the interest.  
**Please seek advice from the Monitoring Officer about disclosable pecuniary interests.**

What is a non- disclosable pecuniary interest or a Non-Pecuniary Interest? – this is an interest which is not a disclosable pecuniary interest (as defined) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon your judgement of the public interest.

### DPI

If the interest is not already in the register you must (unless the interest has been agreed by the Monitoring Officer to be sensitive) disclose the existence and nature of the interest to the meeting.



If the interest is not entered in the register and is not the subject of a pending notification you must within 28 days notify the Monitoring Officer of the interest for inclusion in the register.



**Unless you have received dispensation upon previous application from the Monitoring Officer, you must:**

- **Not participate, or participate further, in any discussion of the matter at a meeting;**
- **Not participate in any vote or further vote taken at the meeting; and**
- **Leave the room while the item is being considered/ voted upon**

If you are a Cabinet Member they may make arrangements for the matter to be dealt with by a third person but take no further steps

### Non-DPI

Declare the nature and extent of your interest including enough detail to allow a member of the public to understand its nature. You should declare the interest and decide whether you can properly speak and remain in the meeting or should not participate further.

If you consider the interest would not be regarded as materially impacting upon your judgement you may participate and vote in the usual way.

### **3. WESTMINSTER CITY COUNCIL ARRANGEMENTS FOR DEALING WITH COMPLAINTS ALLEGING A BREACH OF THE MEMBERS' CODE OF CONDUCT**

#### **3.1. CONTEXT**

Under Section 28 of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee of the Council, has failed to comply with Code of Conduct can be investigated and decisions made on such allegations.

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Westminster City Council (“the Council”) has failed to comply with the Members’ Code of Conduct (“the Code”) and sets out how the Council will deal with allegations of a failure to comply with the Code.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member or co-opted member against whom an allegation has been made.

#### **3.2. THE CODE**

The Code adopted by the Council is as set out in section 2 of this chapter of the Council’s Constitution.

#### **3.3. MAKING A COMPLAINT**

If you wish to make a complaint, please complete a copy of the complaint form, available on the Council’s website or on request from the Governance and Councillor Liaison Team, and send or email it to:

The Monitoring Officer Legal Services, 64 Victoria Street, London, SW1E 6QP.

Or

email the Governance and Councillor Liaison Team:

[governanceandcouncillorliaison@westminster.gov.uk](mailto:governanceandcouncillorliaison@westminster.gov.uk)

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering these arrangements.

Please provide all the details requested on the complaint form. If you want to keep your name and address confidential, please indicate this in the space

provided on the complaint form. The Monitoring Officer will consider your request but in the interests of fairness the presumption is that the member concerned is entitled to know who has made the complaint. If, in exceptional circumstances, your request is granted we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent.

The Council will not investigate anonymous complaints unless the Monitoring Officer considers that there is a strong and clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it and will keep you informed of the progress of your complaint.

### **3.4. WILL YOUR COMPLAINT BE INVESTIGATED?**

- (1) The Monitoring Officer will consider each complaint received and will decide, on the basis of the information set out in the complaint form or submitted with the complaint, whether it merits formal investigation. Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, investigating a complaint involves spending public money as well as the cost of officer and Member time. The Council, therefore, takes a proportionate approach to the issue of whether or not a complaint merits investigation bearing in mind the sanctions which can be imposed, if a Member is found to be in breach of the Code, and the costs to the Council and, therefore, to the public of undertaking an investigation. The performance of Members in terms of how they represent those in their wards, is ultimately a matter for the electorate if a Member seeks re-election.
- (2) A complaint will only be considered to merit formal investigation if it complies with:
  - i. All the criteria set out in sub-paragraph (3) below; or
  - ii. One or more of the criteria set out in sub-paragraph (4) below.
- (3) The Monitoring Officer will consult the Independent Person before coming to a final decision as to whether or not a complaint which meets the relevant criteria should be investigated. The relevant criteria referred to in 2(i) above are:
  - i. The complaint raises matters which would be a breach of the Code;
  - ii. The complaint is sufficiently serious to warrant investigation;
  - iii. The complaint is not "tit-for-tat";
  - iv. The complaint appears not to be politically motivated;
  - v. It is about someone who is still a Member or co-opted member of the Council;

- vi. The complaint has been received within 3 months of the alleged failure to comply with the Code unless i) there are exceptional circumstances for the delay and the delay does not mean that it would be difficult for a fair investigation to be carried out or ii) the complaint concerns a pattern of bullying, harassment or intimidation, in such circumstances the time limit could be extended to 6 months;
- vii. The same, or similar, complaint has not already been investigated;
- viii. It is not an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code;
- ix. The Member complained about has not already apologised and/or admitted making an error; and
- x. If the complaint reveals a criminal offence and a complaint has been made to the police, the police investigation and any proceedings have concluded or the police have confirmed no proceedings will be issued.

(4) The relevant criteria referred to in paragraph 2(ii) are:

- i. The complaint reveals a continuing pattern of behaviour that is significantly and unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
- ii. The complaint is made by the Chief Executive or the Monitoring Officer

(5) This decision will normally be taken within 28 working days of receipt of your complaint. The Monitoring Officer will inform you of his/her decision and the reasons for that decision.

(6) In appropriate cases, where the Monitoring Officer has decided in accordance with the criteria set out above, that a complaint would merit investigation the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that their conduct was in breach of the code and offering an apology, or other remedial action such as correcting the Register of Interests. Where the Member makes a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint should be investigated.

(7) Where the Monitoring Officer considers that the complaint should not be investigated further, they shall advise the complainant that they are entitled to appeal the decision. The Chief Executive will consider any appeal in consultation with an independent person.



### **3.5. HOW IS THE INVESTIGATION CONDUCTED?**

- (1) If the Monitoring Officer decides that a complaint merits investigation, they may conduct the investigation but will normally appoint an investigating officer, who may be another senior officer of the Council, an officer of another Council or an external investigator (“the Investigating Officer”). The Investigating Officer will decide whether they need to meet or speak to you to understand the detail of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.
- (2) The Investigating Officer will normally write to the Member against whom you have complained and provide them with a copy of your complaint, and ask the Member to provide their explanation of events, and to identify what documents he needs to see and who he needs to interview.
- (3) In exceptional cases, where the Monitoring Officer has decided to keep your identity confidential your name and address will be deleted from the papers given to the Member.
- (4) Prior to concluding the investigation the investigating Officer will discuss the matter with the Independent Person. At the end of their investigation, the Investigating Officer will produce a draft report (“the Investigation Report”) and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to correct any factual inaccuracies.
- (5) Having received and taken account of any comments which you may make on the draft Investigation Report, the Investigating Officer will send their final report to the Monitoring Officer who will then arrange for the Standards Committee to consider the complaint.
- (6) The Standards Committee will consider the Investigation Report, the written opinion of the Independent Person and any written representations from the Member concerned before deciding whether the Member has failed to comply with the Code and, if so, whether to take any action in respect of the Member.

### **3.6. WHAT HAPPENS AT THE STANDARDS COMMITTEE HEARING WHERE THE INVESTIGATION REPORT WILL BE CONSIDERED?**

- (1) The meeting will be held in public so you may attend the meeting as can other members of the public. There may be occasions where the Investigating Officer and/or the Member consider that there are reasons why the meeting should exclude the press and public. In such circumstances representations will be invited to enable the Committee to make a determination at the outset of the meeting. The Committee will usually consider the matters on the papers but, in exceptional cases, the Member may be permitted by the Committee to

make representations on their own behalf, although they will not be entitled to be represented by a solicitor or other legal representative.

- (2) The Committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code, and dismiss the complaint. If the Committee concludes that the Member did fail to comply with the Code, the Chair will inform those present at the meeting of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Member's failure to comply with the Code. In doing this, the Committee may give the Member an opportunity to make representations but will consider any written representations from the Member and take into account the views of the Independent Person, before deciding what action, if any, to take in respect of the matter.

### **3.7. WHAT ACTION CAN THE STANDARDS COMMITTEE TAKE WHERE A MEMBER HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT?**

The Committee may choose to take one or more of the following actions:-

- i. Censure the Member;
- ii. Report its findings to a meeting of the Council for information;
- iii. Recommend to the Council that the Member be issued with a formal censure;
- iv. Recommend to the Member's Group Leader that [they/he/she](#) be removed from any or all Committees or Sub-Committees of the Council;
- v. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities.

### **3.8. WHAT HAPPENS AT THE END OF THE HEARING?**

At the end of the hearing, the Chair will announce the decision of the Committee as to whether the Member failed to comply with the Code and as to any sanctions imposed.

As soon as reasonably practicable thereafter, the Monitoring Officer will write to you and the Member concerned confirming the decisions taken.

### **3.9. APPEALS**

- (1) There is no right of appeal against the decision of the Standards Committee for you as complainant. If you feel that the Council has failed to deal with your complaint properly and that this failure has caused you injustice, you may make a complaint to the Local Government Ombudsman.
- (2) However if it is resolved that the Member has breached the Code, the Member will have an opportunity to appeal against the decision by advising

the Monitoring Officer in writing within 14 days of the Committee meeting. The Member will be required to detail the grounds upon which an appeal is sought.

- (3) Upon receipt of notification of appeal the Monitoring Officer will consult an Independent Person for their views. The Monitoring Officer will forward a report detailing the allegations, views of the Independent Person and the findings of the investigation to a second Standards Committee who will determine the appeal case. This Committee will comprise of different membership to that of the first Committee.

### **3.10. WHAT ARE THE RESPONSIBILITIES OF THE STANDARDS COMMITTEE?**

The Standards Committee is charged with considering those written complaints, that a Member or co-opted Member has failed to comply with the Code, referred to it following an investigation of the complaint. The Committee may decide to impose a sanction if it finds that the Member has failed to comply with the Code.

### **3.11. WHO IS THE INDEPENDENT PERSON?**

- (1) The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and has been appointed by the Council. There a number of statutory restrictions on who may be appointed. For example, a person cannot be appointed as an independent person if [they are](#), or has been within the past 5 years, a Member, coopted Member or officer of the Council.
- (2) The Independent Person may be invited to attend meetings of the Committee and their views are sought and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code and as to any action to be taken following a finding of failure to comply with the Code.
- (3) The Council currently has 3 Independent Persons who are invited to meetings of the Standards Committee.

### **3.12. REVISION OF THESE ARRANGEMENTS**

The Council may by resolution agree to amend these arrangements.

## **4. WESTMINSTER CITY COUNCIL EMPLOYEES' CODE OF CONDUCT**

### **4.1. EMPLOYEES CODE OF CONDUCT**

- (1) This Code meets the recommendations of the Nolan Committee's report on standards in public life that all public bodies should draw up codes of conduct which cover the seven principles of public life i.e. selflessness integrity, objectivity, accountability, openness, honesty, and leadership.
- (2) This Code sets out the standards of conduct that the Council expects of all its employees.
- (3) The Code should be read in conjunction with the Council's "Code of Conduct - Employees' Handbook" which provides practical advice on following the Code in day to day work situations.
- (4) Employees in education settings should read the code in conjunction with the "Guidance for safe working practice for the protection of children and staff in education settings" issued by the National Network of Investigation and Referral Support Co-ordinators (Department for Education and Skills) and "Guidance about Conduct for Staff, Volunteers, Governors, etc., whose work brings them into contact with young people" issued by the National Employers' Organisation for School Teachers.
- (5) Breaches of the Code may result in action under the Council's disciplinary code. Serious breaches of the Code may be considered to be gross misconduct.
- (6) The Code primarily addresses the Council's expectations for the conduct of its own employees. However, the Council expects that any consultant (and their employees), contractor (and their employees), partner (and their employees), secondee and agency staff, who are engaged to carry out work or provide services on the Council's behalf, will abide by the principles of the Code as appropriate. In the event that the Code is breached, consideration will be given to terminating the contract/arrangement between the consultant/contractor/outside organisation and the Council, and/or seeking compensation and, as appropriate, referral of the matter to the police or other relevant regulatory body.

### **4.2. GENERAL PRINCIPLES**

- (1) The public is entitled to expect the highest standards of conduct from all Westminster City Council employees.
- (2) The role of employees is to serve the City Council in providing advice, implementing its policies, and delivering services to the local community. Employees must perform their duties to the best of their abilities with honesty,

integrity, impartiality and objectivity, and contribute to the maintenance of high standards in public service.

- (3) Employees must at all times act (inside and outside work) in accordance with the trust that the public is entitled to place in them.

#### **4.3. ACCOUNTABILITY**

- (1) Employees work for Westminster City Council and serve the whole of that authority. They are accountable to, and owe a duty to the City Council.
- (2) They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

#### **4.4. POLITICAL NEUTRALITY**

- (1) City Council employee, whether or not politically restricted, must follow every lawfully expressed policy of the City Council and must not allow their own personal or political opinions to interfere with their work.
- (2) Where employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

#### **4.5. RELATIONS WITH MEMBERS, THE PUBLIC AND OTHER EMPLOYEES**

- (1) Mutual respect between City Council employees and Members is essential to good local government, and working relationships should be kept on a professional basis.
- (2) City council employees must deal with the public, Members and other employees sympathetically, efficiently, with respect and without bias.
- (3) The protocol on Member/Officer Relations (section 5) provides more detail on this.

#### **4.6. EQUALITY**

- (1) City Council employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

#### **4.7. STEWARDSHIP**

- (1) City Council employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

#### **4.8. PERSONAL INTERESTS**

(1) City Council employees' private lives are their own concern but they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

- i. any City Council rules on the registration and declaration by employees of financial and non - financial interests; and
- ii. any City Council rules on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the City Council. Employees must not accept benefits from a third party unless authorised to do so by the City Council.

#### **4.9. WHISTLEBLOWING**

(1) In the event that a City Council employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee must report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the City Council's confidential "Whistleblowing" reporting procedure designed for this purpose.

#### **4.10. TREATMENT OF INFORMATION**

(1) Openness in the dissemination of information and decision making is the norm in the way the City Council functions. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience.

(2) Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant City Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions.

(3) Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

#### **4.11. APPOINTMENT OF STAFF**

(1) City Council employees involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to

whom they are related, or with whom they have a close personal relationship outside work.

- (2) City Council employees must not provide references on behalf of the Council for employees who are relatives or friends; nor must they provide references to the Council in respect of prospective employees who are relatives or friends

Note:-

- a) "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; and
- b) "partner" in sub-paragraph (a) above means a member of a couple who live together.

#### **4.12. PERSONAL FINANCIAL AFFAIRS**

- (1) Employees must conduct their personal financial affairs so that neither the Council nor another public body, is defrauded or is otherwise denied, the income and/or other resources to which it is entitled by law.

#### **4.13. HEALTH AND SAFETY**

- (1) Employees must -
- i. be aware of health and safety law, which is displayed in all workplaces, and the Council's health and safety statement
  - ii. carry out their work in a safe and proper manner having regard at all times for their own health and safety and that of colleagues and the public
  - iii. comply with the requirements of the Council's sick pay scheme.

#### **4.14. CHILDREN'S STANDARD**

- (1) City Council employees engaged in education and other children's services must comply with the "Westminster Standard" to ensure the best outcomes for Westminster's children. This Standard will make sure that all staff working with children are: representative of the Westminster community, flexible, competent and confident, ready to listen to children and their carers, work in partnership with users and colleagues, and committed to safeguarding and providing the best possible service for children, as well as promoting their health and wellbeing.

#### **4.15. BREACHES OF THE CODE**

- (1) Breaches of the Code may result in action under the Council's disciplinary code. Serious breaches of the Code may be considered to be gross misconduct.

## **5. PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **5.1. PRINCIPLES UNDERLYING MEMBER – OFFICER RELATIONS:**

- (1) Good administration is dependent upon a successful relationship between Councillors and officers which can only be based upon mutual trust and an understanding of each other's roles and responsibilities.
- (2) This relationship, and, the trust which underpins it, should not be abused or compromised.
- (3) Accordingly, Councillors should not attempt in any way to influence the terms of officers' reports or recommendations on any matter.
- (4) Equally, officers should give clear, independent advice. It is not enough to avoid actual impropriety.
- (5) Members and Officers should at all times avoid any occasion for suspicion and any appearance of improper conduct.
- (6) The fundamental principle which underlies Member/Officer relationships is that officers are required to be politically neutral.

### **5.2. THE NOLAN PRINCIPLES**

- (1) The Council's ethical framework is underpinned by the Seven Principles of Public Life also called the Nolan Principles that apply to anyone who is a public office holder. This protocol implements the Principles into practice as follows:
  - Selflessness - By ensuring that officers and members work together for the public benefit.
  - Integrity - By avoiding inappropriate influence on officers' activities and the delivery of services.
  - Objectivity - By ensuring officers act impartially and fairly between political groups and they are not asked or pressured to act otherwise by members.
  - Openness - By ensuring members are aware of their rights to information where information is confidential and should not be shared. Ensuring Officers respect members' rights and understand their limits, especially where personal information is involved.
  - Honesty - Holders of public office should be truthful.
  - Accountability - Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.



- Leadership - By treating others with respect and actively supporting the Nolan Principles in practice.

### **5.3. BULLYING**

- (1) Councillors and officers must not bully or harass any person. Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at any person through means that undermine, humiliate, denigrate or injure the recipient. This can be contrasted with the legitimate challenges which a Councillor or officer can make in challenging policy or scrutinising performance.
- (2) Bad relations between Councillors and officers can be destructive to good governance and there has to be an understanding by Councillors that sometimes there may be a legitimate reason why member expectations cannot be met, e.g. because of a council policy or a legal requirement such as confidentiality.
- (3) Where a Councillor has a concern about an officer or the Council services then this should be made to the Director of the service where the Councillor feels the fault lies or to the Chief Executive where it involves a Director personally. Indeed, Councillors have a duty to raise any issues where they have reason to think that fraud/probity, corruption or malpractice of any sort is involved within the Council.

### **5.4. ROLES OF MEMBERS AND OFFICERS**

- (1) For local government to be effective a strong working partnership between Members and officers must be established. This partnership can only be effective if it is based on mutual trust and respect. The contents of the Code of Governance and this protocol are intended to ensure that there is no doubt about the roles and procedures of the City Council, which will help this partnership to operate effectively.
- (2) Officers serve the City Council as a whole, serving all elected Members. Officers must carry out the Council's work under the direction and control of the Council and properly constituted Committees and Sub-Committees, the Cabinet and Cabinet Members. A Member in an individual capacity (except a Cabinet Member acting within their terms of reference) can exercise no lawful authority and Members in general must operate through the Council and its Committees and Sub-Committees. Cabinet Members must exercise their functions in accordance with the Constitution and their terms of reference. However, it is also important that officers recognise the right of Members, the elected representatives, to determine policy and do not act in any way to undermine that right.
- (3) The Councillors are responsible for:

- i. providing a focus for community leadership in local wards and acting as advocates on behalf of constituents;
- ii. giving the authority political leadership and deciding on overall Council policy;
- iii. making decisions within overall Council policy;
- iv. the scrutiny of Council policy and services; and
- v. representing the area and the Council externally.

(4) Council officers are responsible for:

- i. providing professional advice and relevant information (objectively and impartially) to elected members when they are formulating policy and taking decisions or scrutinising the decisions and actions of others;
- ii. implementing decisions made by Councillors/committees; and
- iii. taking managerial and operational decisions in accordance with the Council's schemes of delegation.

#### **5.5. RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

(1) Regular contact between Councillors and officers is necessary to ensure the efficient working of the Council. Councillors and officers should have regard to and respect for their different roles in such contacts. The level at which contact occurs will vary depending upon the nature of the service and the reason for the contact. Councillors and Officers involved should always bring concerns about issues affecting a department directly to the attention of the relevant Director.

#### **5.6. RELATIONSHIP BETWEEN CHAIR OF COUNCIL AND OFFICERS**

(1) The Lord Mayor acts as Chair of the Council. In this capacity the Lord Mayor is entitled to receive a briefing from officers on matters relating to the conduct of the Council Meeting.

#### **5.7. RELATIONSHIP BETWEEN LEADER AND OTHER MEMBERS OF CABINET AND OFFICERS**

(1) The Leader of the Council, as Chair and a member of the Cabinet, has the duty to appoint the other members of the Cabinet (not exceeding 10 Members including the Leader). As such the Leader has a special responsibility at the centre of the Council. Other members of the Cabinet will be required to recognise this when taking decisions within their respective portfolios and otherwise keeping the Leader informed.

(2) Officers will need to be conscious of the respective roles played by the Leader and individual Members of the Cabinet. These Members will require additional briefing on areas within their respective portfolios. It will be the responsibility of the relevant Chief Officer to ensure that this is carried out. Officers and

Members will be asked to remember that Cabinet members are unable to take individual decisions without having first considered an Officer report.

#### **5.8. RELATIONSHIP BETWEEN CHAIRMEN AND MEMBERS OF OVERVIEW AND SCRUTINY COMMITTEES AND OFFICERS**

- (1) The Chairs and Members' of Policy and Scrutiny Committees have powers to call in decisions taken, but not implemented, in accordance with the procedures set out in the constitution.
- (2) The Chairs and Members of Policy and Scrutiny Committees have a role in helping to ensure that Council services are provided in accordance with agreed policies. They can also require that reports relating to their areas of responsibility (as set out in the Terms of Reference) be submitted to assist them in their overview role. They can, however, only require this when acting collectively as a Committee.
- (3) Officers have a duty to ensure that Chairs of Policy and Scrutiny Committees receive sufficient information to enable them to conduct their roles in respect of both overview and scrutiny

#### **5.9. ROLE OF CHAIRS GENERALLY, INCLUDING RELATIONSHIP WITH OFFICERS**

- (1) Standing Orders give Committee Chairs certain responsibilities to control and conduct Meetings. Other than these powers the Chairs are in the same constitutional position as all other members. Standing Orders also require Chairs to be consulted by Chief Officers before certain delegated powers are exercised by the Chief Officer. However, as emphasised above, Chairs have no executive role or powers to make decisions relating to the discharge of Council functions. The power to make such decisions remains with the Council, the Cabinet, the relevant Cabinet Member, committee or Chief Officer in accordance with the agreed scheme of delegation.

#### **5.10. OFFICER RELATIONSHIPS WITH PARTY GROUPS**

- (1) Meetings of Party Groups are essentially political forums, and as such, not attended by Officers.
- (2) Officers may attend these meetings to provide briefings only with the express permission of the Chief Executive and in such instances a similar briefing should be offered to all the Political Groups on the Council.

#### **5.11. MEMBERS IN THEIR WARD ROLE AND OFFICERS**

- (1) Members of the Council will of course wish to take a special interest in matters in their ward. This is reflected in the Ward Member Consultation procedures, which are set out in the Code of Governance. Guidance in respect of Ward Member Consultation for officers is set out in detail in the

Report Writing Guide. Under this procedure Members are consulted on all reports which affect their wards and have the right to have their comments included in the Committee reports. Members have a special role in the local community covered by their Ward and they may from time to time seek advice from Officers in respect of any matters in their Ward as a result. Provided these relate to the functions of the City Council this advice should be given.

- (2) Members will, through their ward casework, often be required to make contact with officers in a number of departments to obtain information on behalf of their constituents. This is perfectly in order and from time to time it may be appropriate for officers to reply to constituents on behalf of, or at the request of, Ward Members.

## **5.12. COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION**

- (1) The City Council has agreed the following policy: "Information and documents should be made available on request by Officers to Members unless
- i. there is a clearly and properly justifiable reason for declining access; and
  - ii. the Member in question cannot establish a legal right to the information or documentation".
- (2) Members are entitled on a "need to know" basis to receive documents and information on request where it is clear that the Member concerned requires the documentation or information because of their position within the City Council or by virtue of their Membership of a Committee or Sub-Committee.
- However, if information is requested which is not readily available, or will require significant resources to produce, officers are advised to seek guidance from their respective Chief Officer, before providing the information.
- (3) In addition, all Members of the Council have a separate statutory right to inspect documents relating to matters which are to be the subject of a decision by the Council, the Cabinet, a Cabinet member or a Committee or Sub-Committee, provided that the documents are within the possession of the Council.
- (4) Members of the Council will only be entitled to receive such information and documents under their statutory right if it is not exempt or confidential in accordance with the provisions of the Access to Information legislation. However, they may nevertheless be entitled under their common law "to know" rights.
- (5) More details of Members' rights of access to information can be found in the Access to Information Procedure Rules set out in the Constitution and elsewhere in the Code of Governance.

### **5.13. OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES**

- (1) Co-opted Members of the Policy and Scrutiny Committees and Independent Members of the Standards and Audit and Performance Committees are entitled to receive documents and information relating to their respective appointment in the same way as if they were an elected Member.

### **5.14. PRESS RELEASES**

- (1) Full details of the framework for the issue of press releases, together with details of the role of the Council's Communications Section, are set out elsewhere in the Constitution.

### **5.15. CORRESPONDENCE AND COMMUNICATIONS**

- (1) Members may telephone or email issues, which require responses to officers. Whatever method is used Members are entitled to receive a full response within 10 days. If for any reason this is not possible, a holding reply setting out the reasons for the delay should be sent as soon as possible (and before the expiry of the 10 days). If Members have not received any response after the expiry of 10 days the relevant Director should be informed.

### **5.16. CONFIDENTIALITY**

- (1) Members and officers must be aware of and respect the limits on their access:
  - i. Receiving confidential information as a Councillor does not mean the information is public and can be shared with other members, constituents or the public. It remains confidential unless there is consent to disclosure or it is published. Consent can be given to disclosure either to specific persons or generally.
  - ii. Individual's data protection rights and privacy must still be respected;
  - iii. Confidential and personal information received as a Councillor cannot be used for party political purposes.
- (2) A breach of confidentiality is likely to be a breach of the Members' Code of Conduct and place the Council at legal, financial and reputational risk. It potentially leaves the Councillor and Council at risk of legal action for breach of confidentiality and, for personal data, at risk of enforcement action by the Information Commissioner's Office.

## **6. ANTI-FRAUD, BRIBERY & CORRUPTION STRATEGY**

### **6.1. INTRODUCTION**

(1) This Strategy sets out the Council's commitment to preventing, detecting and deterring fraud, corruption or other irregularity, and to taking action where this is suspected or detected. It aims to:

- i. enhance and maintain an anti-fraud culture;
- ii. actively encourage prevention;
- iii. act as a deterrent to fraudulent and corrupt acts, including bribery;
- iv. promote detection;
- v. provide clear guidance on roles and responsibilities; and
- vi. identify a clear pathway for investigation and remedial action; and
- vii. provide policy and advice in dealing with bribery and suspected bribery.

(2) This strategy is supplemented with more detailed documents:

- i. Appendix A: Offences under the Bribery Act 2010;
- ii. Appendix B: Response and Investigation Plan; and
- iii. Appendix C: Prosecution and Sanctions Policy.

### **6.2. POLICY STATEMENT – YOUR RESPONSIBILITIES**

(1) The Council is committed to the highest ethical standards and requires Members, Senior Managers and all other staff, including contractors, to make themselves aware of, and comply with, the seven principles of public life as defined in the 'Nolan Report'. These principles are:

- i. selflessness
- ii. integrity
- iii. objectivity
- iv. accountability
- v. openness
- vi. honesty
- vii. leadership

(2) The Council expects everyone involved in providing Council services to act with integrity at all times, to be totally honest and trustworthy, and to comply with all laws and regulations applicable to the Council's business. Fraud, corruption and other irregularity will not be tolerated.

(3) Further information on the required standards is set out in the Employees' Code of Conduct, Employees' Handbook, and Members' Code of Conduct.

### **6.3. WHAT IS FRAUD AND CORRUPTION?**

(1) The legislation in this area is very complex but the term "fraud and corruption" includes acts involving:

- i. theft;
- ii. deception;
- iii. bribery;
- iv. forgery;
- v. extortion;
- vi. conspiracy;
- vii. embezzlement;
- viii. misappropriation;
- ix. false representation;
- x. concealment of material facts;
- xi. collusion;
- xii. giving or accepting of an advantage; and
- xiii. abuse of position.

(2) This can be broadly defined as the offering or acceptance of inducements, gifts, favours, payment or benefit-in-kind which may influence the action of any person. Corruption does not always result in a loss. The corrupt person may not benefit directly from their deeds; however, they may be unreasonably using their position to give some advantage to another.

(3) It is a common law offence of corruption to bribe the holder of a public office and it is similarly an offence for the office holder to accept a bribe.

### **6.4. WHAT IS BRIBERY?**

(1) The Bribery Act 2010 defines **bribery** as:

"the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise".

(2) The Bribery Act states that bribery and corruption are punishable for individuals by up to ten years' imprisonment and if an organisation is found to have taken part in corruption, the organisation could face an unlimited fine and damage to its reputation.

- (3) Under Section 7 of the Act, it is an offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It is a defence if the organisation has adequate procedures in place to prevent bribery. A public body would not be a commercial organisation for the purposes of the Act. However, the Council strives to meet the highest standards of behaviours and as such have reviewed its policy and procedures to ensure any such risks are minimised.
- (4) If a bribery offence is committed with the consent / connivance of a senior officer of the local authority, then that person is also personally guilty of an offence. This will potentially include all those working at manager level and upwards.
- (5) Appendix A is an extract of examples of cases of bribery as defined in the Bribery Act 2010.

## **6.5. WHO IS COVERED BY THE POLICY**

- (1) This policy applies to all individuals working at all levels including:
  - i. Directors;
  - ii. employees (permanent, fixed-term, temporary/agency staff, interns);
  - iii. consultants/agents;
  - iv. contractors;
  - v. seconded staff;
  - vi. volunteers;
  - vii. sponsors; or
  - viii. any other person associated with the Council or any of its subsidiaries.
- (2) Elected members are also covered by the policy.

## **6.6. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF MEMBERS**

- (1) All Members agree to abide by the Members' Code of Conduct, which sets out a number of general principles and required standards of conduct.
- (2) The Code stipulates that Members should "promote and support those principles by leadership, and by example, and should act in a way that secures or preserves public confidence".
- (3) The remit of the City Council's Audit & Performance Committee includes:
  - i. Overseeing the production of the Council's Annual Governance Statement which sets out the arrangements in place for maintaining sound internal control systems, responding to suspicions of fraud, and



promoting ethical behaviour and compliance with laws and regulations.

- ii. Monitoring the effectiveness of the Council's internal control systems, anti-fraud and corruption strategy, and levels of compliance through regular reports from internal audit.
  - iii. Reviewing the proposed work plans of internal audit and external audit, to ensure appropriate coverage of the Council's key internal control systems, compliance activities and anti-fraud arrangements.
  - iv. Considering the outcomes of internal audits and investigations, and the key findings from external audit work.
  - v. Conducts selected detailed reviews of the Council's anti-fraud arrangements.
  - vi. Providing assurance to external audit on the Committee's arrangements for overseeing management processes for identifying and responding to the risks of fraud, and the controls put in place to mitigate those risks.
  - vii. To be able to call externally appointed contractors to account, where concerns of fraud, error or maladministration have emerged.
- (4) In addition, the Audit and Performance Committee maintains an overview of the arrangements in place for maintaining high ethical standards throughout the Council and receives an annual report which includes details of anti-fraud activities.

#### **6.7. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF SENIOR MANAGERS**

- (1) Senior Managers have responsibility for ensuring that there are sound systems of internal control within their units and, in respect of contracted services, to determine the risk of fraud, corruption and irregularity and incorporate appropriate controls and safeguards within tender documentation and in the process of tender evaluation.
- (2) Controls should be designed and implemented to reduce the risks posed by fraud and ensure, as far as possible, its detection should it occur. Senior Managers must implement audit recommendations within agreed timescales to ensure that systems are maintained appropriately to prevent and detect fraud.
- (3) As part of that responsibility, line managers need to:
  - i. inform staff of the Council's code of business conduct, gifts and hospitality, declaration of interest and Anti-Fraud, Bribery and Corruption policy as part of their induction process, paying particular attention to the need for accurate completion of personal records and forms;
  - ii. ensure that all employees and contractors for whom they are accountable are made aware of the requirements of the policy;

- iii. assess the types of risk involved in the operations for which they are responsible;
- iv. ensure that adequate control measures are put in place to minimise the risks. This must include clear roles and responsibilities, supervisory checks, staff rotation (particularly in key posts), separation of duties wherever possible so that control of a key function is not invested in one individual, and regular reviews, reconciliations and test checks to ensure that control measures continue to operate effectively;
- v. be aware of the Council's Anti-Fraud, Bribery and Corruption Policy;
- vi. identify sensitive/at-risk posts;
- vii. ensure that controls are being complied with;
- viii. contribute to their Executive Director's assessment of the risks and controls within their business area, which feeds into the Council and the Auditor's overall statements of accountability and internal control;
- ix. report back swiftly to their Executive Director and contractors where faults and errors are detected or exposed; and
- x. ensure immediate preventative action is taken to prevent further loss of public funds where fault and error has been detected.

#### **6.8. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF CONTRACTORS**

- (1) The role of contractors is no different from that of Senior Managers in relation to controls operated on behalf of the Council. As such, contractors must ensure they have adequate systems and controls to ensure the prevention and detection of fraud and corruption. Contractors must also implement audit recommendations within agreed timescales.

#### **6.9. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF INTERNAL AUDIT**

- (1) The City Council has a statutory responsibility to maintain an adequate and effective internal audit function. This responsibility rests with the Chief Finance Officer, who arranges the internal audit of the Council's internal control systems and ensures appropriate planning, direction, standards and coverage.
- (2) Internal Audit is responsible for reviewing and appraising the adequacy, reliability and effectiveness of the Council's systems of internal control and reporting to Senior Managers. Coverage is risk based and the annual planning cycle provides Senior Managers with the opportunity to draw attention to any concerns.

- (3) Internal Audit is responsible for following up recommendations to confirm that these have been implemented by Senior Managers in accordance with agreed timescales.
- (4) Internal Audit will also periodically check the level of compliance across the Council with the Anti-Fraud, Bribery and Corruption policy and report on it. This will aim to identify the level of effectiveness so that controls can be improved if the policy is not being implemented effectively.

#### **6.10. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF THE FRAUD INVESTIGATION TEAM**

- (1) The Fraud Investigation Team will regularly report to the Tri-Borough Director of Audit and Fraud on the progress of the investigation of actual or suspected bribery if and when referral to the police is required.
- (2) The Fraud Investigation Team and the Tri-Borough Director of Audit and Fraud will decide who will conduct the investigation and when/if referral to the police is required.
- (3) The Fraud Investigation Team will also:
  - i. Ensure that other relevant parties are informed where necessary e.g. People Services will be informed where an employee is a suspect.
  - ii. Ensure that the Council incident and losses reporting systems are followed.
  - iii. Ensure that any system weaknesses identified as part of the investigation are followed up with management or Internal Audit.

#### **6.11. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF THE BRIBERY ACT COMPLIANCE OFFICER**

- (1) The Council has appointed the Director of Law as the Senior Officer who will be responsible for implementing the Anti-Bribery Policy and these guidelines, providing guidance and training, monitoring compliance and sanctioning violation of the policy. The officer will review annually the suitability, adequacy and effectiveness of the Council's anti-bribery arrangements and implement improvements as and when appropriate.
- (2) The Senior Officer will be supported by the Tri-Borough Director of Audit and Fraud and report the results of any fraud cases to the Audit & Performance Committee through the Internal Audit and Fraud report.

#### **6.12. PREVENTION AND DETECTION - ROLES AND RESPONSIBILITIES OF THE PROCUREMENT TEAM**

- (1) Procurement practices will be conducted in a fair and transparent manner and not deal with contractors or suppliers known or reasonably suspected to be paying bribes.

- (2) The Council will contractually require contractors and suppliers to comply with this Anti-Fraud, Bribery and Corruption policy and to make available HR data for security screening in-line with Council Employees as requested.
- (3) The Council will monitor performance and, in case of non-compliance, require the correction of deficiencies, apply sanctions, or eventually terminate the agreement.

### **6.13. PREVENTION AND DETECTION - RECRUITMENT OF STAFF AND STAFF VETTING**

- (1) It is important to ensure that the integrity of Council systems is maintained. A key element of this is to ensure that the Council employs staff of the appropriate quality and integrity. The Recruitment Code of Practice, which is part of the Council's HR Framework, provides guidance on the appointment process.
- (2) The Council will ensure staff provide adequate proof of identity and permission to work in the UK. Staff are appointed subject to satisfactory references and care must be taken to ensure that employment references and qualifications are genuine. Copies of appropriate qualifications will be requested and be held on the relevant personal file. For certain posts, checks to the Police Criminal Records Bureau and List 99 will be necessary and carried out. Records of these checks and their outcome will be maintained.
- (3) In addition, the Council's employment application form includes an "Applicant's Declaration". This requires confirmation by each applicant of their understanding that if false information is provided which leads to their appointment, or it is subsequently discovered that false information has been supplied, it will render them liable to dismissal without notice. Due regard will also be had to the rehabilitation of offenders in relation to 'spent' and 'unspent' convictions. The Council's Recruitment Code contains specific information on the way in which this sensitive area is to be handled.
- (4) The Council also requires contractors to properly vet applicants who will be working on Council contracts as staff or sub-contractors. The precise requirements are included within the contract terms and conditions.
- (5) HR will take steps at the recruitment stage to establish, as far as possible, the previous record of potential employees as well as the veracity of required qualifications and memberships of professional bodies, in terms of their propriety and integrity. In this regard, temporary and fixed term contract employees are treated in the same manner as permanent employees.
- (6) New joiners will be bound by a contractual obligation in the employment contracts not to engage in bribery as defined in this policy.

#### **6.14. PREVENTION AND DETECTION – ANTI-MONEY LAUNDERING**

- (1) The Proceeds of Crime Act 2002, the Terrorism Act 2000 and the Money Laundering Regulations 2007, place obligations on the Council and its employees with respect to suspected money laundering. The following actions constitute money laundering:
  - i. Concealing, disguising, converting, transferring or removing criminal property;
  - ii. Becoming concerned in an arrangement in which someone knowingly or suspects or facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person; and / or
  - iii. Acquiring, using or possessing criminal property.
- (2) Detailed guidance on money laundering is included in the Council's Financial Regulations and communicated regularly to those staff most likely to be exposed to money laundering situations.
- (3) The Council's Money Laundering Reporting Team is responsible for reporting suspicious circumstances to the Serious Organised Crime Agency (SOCA).

#### **6.15. PREVENTION AND DETECTION – PROACTIVE ANTI-FRAUD INITIATIVES**

- (1) In addition to undertaking reactive investigations, the Internal Audit service also undertakes an annual risk based proactive anti-fraud programme, which targets resources to specific areas where there is a higher risk of fraud.
- (2) Data matching is used both within and outside the Council and is a successful means of identifying fraud. The Council participates in anti-fraud initiatives established by the Department for Work and Pension's (DWP) Housing Benefit Matching Service and the Audit Commission's National Fraud Initiative. Where appropriate, it also undertakes specific fraud drives and exchanges information with other external agencies including the Police, Benefit Agencies, HM Revenues and Customs, other Local Authorities and specialist counter fraud data matching organisations and agencies.
- (3) The Council may also run data matching exercises against its own databases. This may include systems holding information about Council employees (payroll and personnel), claimants of housing / council tax benefit and residents parking. Contractors' data must also be used.
- (4) In conducting data matching exercises, the Council will comply with relevant legislation, e.g. Data Protection Act 1998.

#### **6.16. REDRESS AND RECOVERY**

- (1) Disciplinary action and / or other legal action including prosecution, will be taken against those found and proven to be defrauding the Council. The Council may, in certain circumstances, offer an alternative to prosecution in

the case of Housing Benefit fraud in accordance with its Prosecution and Sanctions Policy.

- (2) In addition, all appropriate financial and other redress will be pursued to recover assets that have been lost as a result of fraudulent acts.

#### **6.17. PUBLICITY AND AWARENESS RAISING**

- (1) The Council places a high emphasis on ensuring that the Anti-Fraud and Corruption Strategy is well publicised and that obligations are understood. Information is included within the Council's corporate induction programme and its governance training programme.
- (2) The Council also uses publicity to promote the message that it will not tolerate fraud, corruption or any other form of irregularity and is committed to countering any that is perpetrated. This includes the use of warnings on Council application forms, local newspaper advertisements, articles and features through radio, television and other relevant media, newsletters to staff and Members and press releases on successful prosecutions.

#### **6.18. REPORTING – WHISTLEBLOWING**

- (1) The Council's Whistleblowing Policy encourages employees (and those of contractor and partner organisations) to report any misconduct, suspected misconduct, malpractice, illegal acts or omissions by Members or employees, or by the public in relation to the services they receive from the Council.
- (2) The Policy sets out the mechanisms through which whistleblowers may raise their concerns and the types of conduct that should be reported. For example:
  - i. A criminal act;
  - ii. Disregard for legislation, Council rules, policies and procedures;
  - iii. A miscarriage of justice;
  - iv. Danger to health and safety;
  - v. Any damage to the environment; or
  - vi. An attempt to cover up any of these.
- (3) The Council will not tolerate the victimisation or harassment of anyone raising a genuine concern, and employees are afforded protection from such by the Public Interest Disclosures Act 1998. This legislation aims to ensure employees who may be worried about coming forward can do so in the knowledge that it is safe to do so. Any harassment or victimisation of a whistleblower is treated as a serious disciplinary offence, which will be dealt with under the Disciplinary Code.

## **6.19. REPORTING – FRAUD AND WHISTLEBLOWING HOTLINE & REPORT A FRAUD (COUNCIL’S WEBSITE)**

- (1) The Council operates a ‘freephone’ Fraud and Whistleblowing hotline (**0800 028 9888**). It is answered by trained fraud investigators within Internal Audit and staffed during normal office hours (an answering service operates at all other times).
- (2) Staff and the public alike, are encouraged to ring the hotline with any information about known or suspected fraudulent activity. All information is treated in the strictest confidence and if callers wish to remain anonymous, then that will be respected.
- (3) Frauds can also be referred anonymously through the Report a Fraud facility on the Council’s website. Both the online and hotline facilities are regularly publicised.

## **6.20. INVESTIGATION – WHO INVESTIGATES FRAUD WITHIN THE COUNCIL**

- (1) It is the responsibility of the Council’s appointed Internal Audit contractor to investigate all cases of suspected fraud and corruption. Within Internal Audit, there is a dedicated Fraud Investigation Team. The overall aim of the team is to deliver a quality investigative service with the objective of preventing, detecting and deterring fraud throughout the Council, thereby securing the “public purse”.
- (2) The specific scope and objectives of the team are to:
  - i. Carry out investigation of “reactive” housing benefit and corporate fraud referrals to determine whether fraud has occurred;
  - ii. Carry out investigation of “proactive” housing benefit and corporate fraud referrals, including those arising from the Housing Benefit Matching Service and the National Fraud Initiative, to detect where fraud or overpayment has occurred;
  - iii. Apply appropriate sanctions and redress where it is proven that fraud has taken place in accordance with the Council’s Prosecution and Sanctions policy;
  - iv. Identify appropriate means to further tackle Housing Benefit and corporate fraud including the development of new and innovative proactive exercises;
  - v. Encourage referrals of suspected fraud from both internal and external sources;
  - vi. Evaluate all referrals to determine whether resources could be effectively deployed to investigate them;
  - vii. Carry out all investigations in accordance with prevailing legislation;

- viii. Adhere to any published performance standards and any other recognised best practice in respect of fraud investigation;
- ix. Liaise with the Head of Legal Services, the Police and Crown Prosecution Service and the DWP's solicitors branch in all prosecution cases;
- x. Liaise with the Director of Human Resources in the event of serious allegations against existing employees;
- xi. Provide feedback to the Benefits Service on cases of successful sanctions, and obtain publicity in the press for successful prosecution cases;
- xii. Report counter fraud activity to the Internal Audit Client and City Council members as directed;
- xiii. Liaise with the Counter Fraud Investigation Service of the DWP in accordance with prevailing Partnership Agreements;
- xiv. Liaise with partners in the Housing Benefits Service and other Council units where appropriate;
- xv. Ensure Housing Benefit Investigation officers are appropriately trained and qualified;
- xvi. Participate in local and / or national forums regarding Housing Benefit and corporate fraud;
- xvii. Respond to and comply with directives issued by the DWP in the form of Circulars;
- xviii. Comply with the investigators' Code of Conduct;
- xix. Maintain an up to date working knowledge of changes in legislation and best practice and to act accordingly;
- xx. Regularly review anti-fraud policies and strategies taking on board changes in legislation and any emerging best practice; and
- xxi. Alert elected Members and Directors where systemic abuse or failure is suspected or where systematic criminal or unusual patterns of potential fraudulent activity.

#### **6.21. INVESTIGATION – TRAINING FOR INVESTIGATORS**

- (1) The Council's Internal Audit provider ensures that its investigators are fully trained in carrying out their responsibilities and that this training is maintained to ensure continuous improvement. This includes, where appropriate, relevant qualifications such as the Professionalism in Security (PINS) accreditation.
- (2) All investigators are also required to sign up to and comply with a Code of Conduct for investigations

#### **6.22. TRAINING**

- (1) **33.22** The Council will provide training to all relevant employees on a regular basis to make them aware of our Anti-Fraud, Bribery and Corruption policy



and guidelines, in particular of possible types of bribery, the risks of engaging in bribery activity, and how employees may report suspicion of bribery.

- (2) If any specific training is needed, please contact the Tri-Borough Head of Fraud for further information.

**Any abuse or non-compliance with this policy or procedures will be subject to a full investigation and appropriate disciplinary action.**

## **Appendix A: Offences under the Bribery Act 2010**

The following business practices constitute criminal offences under the Bribery Act 2010 and are therefore prohibited:

### **Offences of Bribing Another Person**

1. **Case 1** is where an employee offers, promises or gives a financial or other advantage to another person *and* intends the advantage:
  - (i) to induce that or another person to perform improperly a relevant function or activity, *or*
  - (ii) to reward that or another person for the improper performance of such a function or activity.
  
2. **Case 2** is where an employee offers, promises or gives a financial or other advantage to another person *and* knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity by that person.

The bribery must relate to:

- (i) a function of a public nature,
- (ii) an activity connected with a business,
- (iii) an activity performed in the course of a person's employment, *or*
- (iv) an activity performed by or on behalf of a body of persons (whether corporate or non-corporate).

The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust. It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector and whether the advantage is offered, promised or given directly by the employee or through a third party, e.g. an agent or other intermediary.

### **Offences Relating to Being Bribed**

3. **Case 3** is where an employee requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly (whether by themselves or another person).
  
4. **Case 4** is where an employee requests, agrees to receive or accepts a financial or other advantage, *and* the request, agreement or acceptance itself constitutes the improper performance by themselves of a relevant function or activity.
  
5. **Case 5** is where an employee requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance

(whether by themselves or another person) of a relevant function or activity.

6. **Case 6** is where, in anticipation of or in consequence of an employee requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly:

- (i) by that employee, *or*
- (ii) by another person at their request or with their assent or acquiescence.

Again, the bribery must relate to:

- (i) a function of a public nature,
- (ii) an activity connected with a business,
- (iii) an activity performed in the course of a person's employment, *or*
- (iv) an activity performed by or on behalf of a body of persons (whether corporate or non-corporate).

The person performing the function or activity must be expected to perform it in good faith, impartially or in a position of trust.

It does not matter whether the function or activity is performed inside or outside the UK, whether the other person(s) involved is/are in the public or private sector, whether the employee requests, agrees to receive or accepts the advantage directly or through a third party, e.g. an agent or other intermediary, and whether the advantage is for the benefit of an employee or another person.

In Cases 4 to 6, it does **not** matter whether the employee knows or believes that the performance of the function or activity is improper.

### **Bribery of Foreign Public Officials**

7. **Case 7** is where an employee bribes a foreign public official and intends:

- (i) to influence that official in his/her capacity as a foreign public official *and*
- (ii) to obtain or retain a business or an advantage in the conduct of business. A foreign public official is someone who holds a legislative, administrative or judicial position of any kind or exercises a public function of a country outside the UK, or is an official or agent of a public international organisation.

8. *The following paragraph will apply if any part of the organisation is considered as a 'commercial' one.*

*Failure of commercial organisations to prevent bribery (applicable only to corporates and partnerships - included for information)*

A corporate or partnership is guilty of a corporate bribery offence if an employee, agent, subsidiary or any other person acting on its behalf bribes another person intending to obtain or retain business or an advantage in the conduct of business for the corporate or partnership. For a definition of bribery, please refer to Cases 1, 2 and 7 above.

It should be the policy of a corporate or partnership not to tolerate any bribery on its behalf, even if this might result in a loss of business for it. Criminal liability must be prevented at all times.

## **Appendix B: Response and Investigation Plan**

This Response & Investigation Plan provides detailed guidance and information on the fraud investigation process.

### **1. Role of Internal Audit**

- (1) It is the responsibility of the Council's appointed Internal Audit contractor to investigate all cases of suspected fraud and corruption. The Council's Financial Regulations require that Internal Audit *"shall have access to all documents and records of the Council's units and shall be afforded all facilities and co-operation by Senior Managers and members of their staff who shall provide whatever information or explanation deemed necessary"*.
- (2) In carrying out investigations due regard, where appropriate, will be given to the following:
  - The Council's policies on Equal Opportunities;
  - The Council's Disciplinary Code;
  - Police and Criminal Evidence Act 1984;
  - Data Protection Act 1998;
  - Criminal Procedure and Investigations Act 1996;
  - Human Rights Act 1998;
  - Regulation of Investigatory Powers Act 2000;
  - Freedom of Information Act 2000;
  - Proceeds of Crime Act 2002;
  - Fraud Act 2006;
  - Money Laundering Regulations 2007; and
  - Bribery Act 2010.

### **2. Fraud Referrals – the Need to Report Concerns**

- (1) The Council's Financial Regulations require that any suspected irregularity involving Council funds, cash, stores or other property or any material weakness which has been identified in any system or control, must be reported immediately to Internal Audit who will investigate the circumstances as a matter of urgency.
- (2) The scope of fraud that should be referred to Internal Audit for investigation is not limited to that which has a direct financial impact upon the Council.
- (3) For example, the unauthorised access and / or release of confidential information held on strategic decisions, commercial information relating to contracts let or being let and personal information on staff and / or customers could have a damaging or undermining effect, are also reportable.
- (4) The Internal Audit provider employs dedicated, trained and skilled fraud investigators. It is essential that contact is made with Internal Audit,

who act independently of specific Council activities, as soon as any fraud or irregularity is suspected and the risk of inappropriate action is minimised.

**3. What to do if you suspect Fraud, Corruption, or Other Wrongdoing**

- (1) If you suspect fraud, corruption or any misconduct directed against the Council, or directed at others by staff and contractors of the Council, you should use the freephone Fraud and Whistleblowing hotline or the anonymous, Report a Fraud facility on the Council website.
- (2) Investigators will then consider the merits of investigation and will communicate the intention so that reported complaints are clearly responded to and acted upon.
- (3) You have the option of referring your concerns directly to Internal Audit if you wish to do so. This would normally be the case only when:
  - it is inappropriate or not possible to inform a line manager; or
  - when a line manager has been informed and has taken no action.
- (4) The same applies when considering a referral to the Council’s external auditors, which should only be made after having followed other internal procedures including referral to Internal Audit.
- (5) If you suspect fraud or corruption, as soon as you are aware of the problem:

✓	<b>DO</b> make a written note of your concerns and record all details of the people, documents and circumstances involved.
✓	<b>DO</b> pass any documents or other relevant materials and evidence relating to your suspicions that has come into your possession to your line manager (if appropriate) or the Internal Audit Anti-Fraud Team immediately.
✓	<b>DO</b> act promptly as delays could lead to further losses or the prospect of the destruction or contamination of evidence.
✗	<b>DO NOT</b> do anything that is likely to cause suspicion on the part of those you suspect, i.e. approach individuals or discuss your concerns with anyone apart from your line manager (if appropriate) or the Internal Audit Anti-Fraud Team.
✗	<b>DO NOT</b> ignore your suspicions – genuine concerns will not be reproached (see the Council’s Whistleblowing Policy above).
✗	<b>DO NOT</b> carry out any investigation yourself, however reasonable it may seem to do so. At best the evidence may be lost or compromised, and at worst you could accidentally implicate yourself in the fraud.
✗	<b>DO NOT</b> put yourself at risk by attempting to obtain ‘evidence’ of your suspicions.

✓	<b>ALWAYS</b> consider approaching the Internal Audit Anti-Fraud Team for any advice on the matter before taking any further action.
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(6) Further information on reporting suspicions is contained in the Council's Whistleblowing Policy.

#### 4. **How the City Council will respond to your concerns**

- (1) When fraud, corruption or other wrongdoing is suspected, it is critical that any investigation is conducted in a professional manner aimed at ensuring that the current and future interests of both the Council and the suspected individual(s) or parties are protected. The latter is viewed as equally important as protected the Council, as a suspicion should not be seen as guilty until proven.
- (2) It is also crucial that those notifying their suspicions do not feel threatened. The Council seeks to protect the identity of such employees and does not release the source of notification at any time during the investigation, unless required to do so on a confidential basis, under a legal obligation.
- (3) It is recognised that in some cases, it will be necessary to talk to the person making allegations so as to clarify matters and to establish how this information came to light. The manner in which this is handled will depend on how the referral has initially been made and the willingness of the informant to be interviewed.

#### 5. **Action following referral – How the Council will respond to allegations**

- (1) The stage at which allegations or suspicions are referred, the available evidence and the strength of the suspicions are some factors that determine what action will be taken in any case of suspected fraud, corruption or other irregularity.
- (2) The Anti-Fraud Team Manager, or their appointed Investigator, will carry out a preliminary evaluation in order to identify a course of action and to decide on the reporting processes. This may include interviews of those raising concerns.
- (3) Each referred case will create a file to record chronologically all aspects of an investigation. The file will typically record the following:
  - The original referral details;
  - Records of initial telephone conversations and face to face discussions and interviews;
  - Copies of relevant documents and records to be used as evidence;
  - Details of tests undertaken, their results, and conclusions drawn;

- Decisions on and, where appropriate, authorisation for undertaking any specialist investigative techniques;
  - Records of the advice provided by the Director of Human Resources in cases where disciplinary action may be considered;
  - Records of advice provided by the Head of Legal Services or the Police; and
  - Transcripts of formal interviews undertaken with due regard to the Police and Criminal Evidence Act 1984.
- (4) In cases where a criminal act is suspected, the manner in which evidence is collated and retained will be in accordance with the requirements of the Criminal Procedures and Investigations Act 1996.

6. **The Course of Investigation and Potential Outcomes**

- (1) There are many factors that will determine the course of an investigation and the potential outcomes.
- (2) Where it is appropriate to do so, the Investigation Team will involve the Police to assist with investigation or to assume responsibility for investigation in its entirety.
- (3) Any request for Police involvement will normally follow the conclusion of any initial investigation by the Internal Audit Investigating Officer.
- (4) The referral of a matter to the Police will be dependent on a number of factors including the nature of the suspicions, those suspected of being involved and resources required to investigate.
- (5) If the Police decide that a formal criminal investigation is necessary by them, all staff will co-operate fully with any subsequent requests or recommendations. All contact with the Police following their initial involvement will usually be via the Internal Audit Investigating Officer. If the Police decide to investigate formally, this will not prejudice any internal disciplinary action that could be taken by the Council. In such circumstances, the Police and Director of Human Resources will be consulted to ensure that one investigation does not prejudice or otherwise hamper the other.
- (6) A decision by the Police not to undertake a formal investigation does not preclude subsequent criminal prosecution taking place should evidence of an offence emerge.

7. **Possibility of Disciplinary Offence by Council Staff**

- (1) The decision as to whether or not disciplinary action should be taken rests with line management.



(2) Internal Audit will advise the appropriate line manager when it is considered that there may have been a breach of the Council's Disciplinary Code by an employee.

(3) Any investigation (and decision about suspension from duty, pending completion of the investigation) and resulting disciplinary action under the Council's Disciplinary Code, will be separate from the audit investigation, but it may be used as evidence. As such, Internal Audit may be required to assist with proceedings under the Disciplinary Code.

8. **Offences committed by Employees of a Contractor**

(1) There are a wide variety of contractors carrying out the business of the Council. Many, if not all, of the staff fall outside the scope of the Council's Disciplinary Code, although many contractors adopt the same or a similar code.

(2) Where it is proven that a member of staff working for a contractor has committed an offence that would otherwise fall within the Council's Disciplinary Code, the Council will expect the contractor's own disciplinary code to be invoked.

(3) This includes the possibility of a suspension of the individual from their duties, where appropriate.

(4) In addition, the Council will expect that the contractor responsible for any individual found guilty of an offence, will take appropriate disciplinary action, including dismissal. In cases involving members of contractors' staff, the investigating officer will liaise closely with the appropriate Council (clientside) officer responsible for the contractor.

9. **Liaison with External Bodies**

(1) In some circumstances, the Investigation Team will liaise with or work jointly with external bodies such as the Police, DWP, Immigration, and other Local Authorities.

(2) If any specific training is needed, please contact the Tri-Borough Head of Fraud for further information.

10. **Specialist Investigation Techniques**

(1) When appropriate, the Investigation Team will employ specialist investigative techniques. These techniques will depend on the nature of the investigation and the evidence required to substantiate or refute allegations.

(2) Such techniques will be conducted in line with legislative requirements and may include surveillance, forensic computer analysis, chemical

analysis and handwriting analysis.

11. **Audit and Performance Committee**

- (1) The Audit & Performance Committee will receive regular reports on Internal Audit's work in relation to fraud and corruption.
- (2) In certain circumstances, Internal Audit may consider it necessary to report directly to the Chief Executive and / or Cabinet. This applies, in particular, to cases of suspected fraud involving senior employees or Members.
- (3) Such notification will be carried out in a manner consistent with the Council's Code of Conduct.
- (4) This is to ensure that Senior Managers maintain their independence in respect of appeals from employees against disciplinary action.

12. **External Audit**

- (1) Details of completed investigations will be shared with external audit as part of regular liaison and monitoring.
- (2) In addition, all cases of proven fraud valued at £10,000 and above will be formally reported to the Fraud section.

13. **Concluding the Investigation**

- (1) By the conclusion of the investigation it will be known what action is to be taken.
- (2) This will be dependent on the extent to which evidence supports the allegation(s) and in cases of criminal activity, the level of admissible evidence that has / can be obtained.
- (3) The appropriate action following an investigation is not limited to that taken against an individual or individuals, and may include recommendations for changes to systems of control.
- (4) The possible outcomes of investigation include:
  - No further action;
  - Decision by management to conduct Disciplinary Code investigation;
  - Criminal Prosecution (by Crown Prosecution Service / in-house / DWP);
  - Sanctions (as an alternative to prosecution in Housing Benefit cases only);
  - Civil proceedings for recovery of lost assets; and
  - Recommendations made for improved systems of control.

14. **Reporting Arrangements**

- (1) Arrangements will vary but, at the conclusion of the investigation, a report will usually be prepared for the relevant Senior Manager and any other appropriate line management. Typically this will include:
- how the investigation arose;
  - whose actions have been called into question;
  - their position within the organisation and their responsibilities;
  - how the investigation was undertaken;
  - the facts and evidence which were identified;
  - whether fraud or irregularity was proven;
  - the action taken or ongoing; and
  - a summary of findings and recommendations, both regarding the allegations themselves and any additional work required on the system weaknesses identified during the investigation. The report will recognise any system weaknesses and action taken to correct these that have already been addressed a result of the interim report.
- (2) On occasions, such as when it is necessary to correct a fundamental system weaknesses, an interim report may be issued setting out:
- the findings to date;
  - the interim conclusions drawn from those findings; and
  - recommendations for immediate system control improvements.

15. **Other Related Issues and Considerations**

**(1) Confidentiality**

- (a) No investigation report or supporting documentation is to be made available to any person except as outlined in the Anti-Fraud and Corruption Strategy and this procedure document, or as required for any legal reason.
- (b) All copies of audit reports dealing with allegations of misconduct will be endorsed “Confidential” or “Strictly Confidential”.

**(2) Feedback to Person Who Raised Suspicion**

- (a) In some circumstances, it may be appropriate to provide feedback to the person who made the initial allegations.
- (b) Such feedback will be restricted to that information which is rightly in the public domain and will comply with the obligations of the Data Protection Act 1998.

**(3) Prosecution of offenders.**

- (a) The Council is committed to protecting public funds through its action on fraud. As a deterrent to others, prosecution will be considered in all cases with wide publicity given to successful

prosecutions.

- (b) There is an alternative to prosecution available to the Council i.e. Official Cautions and Administrative Penalties in cases involving Housing Benefit fraud.
- (c) Administrative Penalties and Official Cautions are detailed below and their use is to be considered on an individual case by case basis and in line with the Council's Prosecution and Sanctions Policy.
- (d) The Council's Prosecution and Sanctions Policy will be used by Internal Audit to determine what action should be taken against those who commit offences against the Council.

#### **(4) Investigators Code of Conduct**

- (a) The Council is keen to ensure that the Investigators employed by Internal Audit, act in a proper manner at all times in accordance with the "Investigators Code of Conduct".

#### **(5) Defamation**

- (a) All investigative work must be substantiated by the strongest evidence. Reports must avoid content that could be considered to be defamatory in the event of the report being made public.
- (b) Defamation in law is defined as:  
"The publication (i.e. communication) of an untrue statement, which tends to lower a person in the estimation of right-thinking members of society generally, or which tends to make them shun or avoid that person".

## **Appendix C: Prosecution and Sanctions Policy**

### **1. Introduction**

This Policy specifically relates to the work carried out by the City Council's Internal Audit contractor.

- (1) The Council takes fraud committed against it very seriously. This document sets down the criteria which determines when the Council will or will not normally pursue criminal prosecution proceedings.
- (2) In relation to cases involving Housing Benefits the document also sets down the alternatives to prosecution and when these will and will not normally be considered appropriate.
- (3) The decision to prosecute someone is a serious step. The aim of this Policy is to provide a framework and guidance that investigators and those prosecuting offences use to ensure fair and consistent decisions are made.
- (4) This Policy forms part of the City Council's Anti-Fraud and Corruption Strategy although decisions about the course of action to take in any case can be made in reference to this Policy alone.

### **2. Deciding to Prosecute**

#### **(1) When Prosecution will normally be pursued**

- (a) This Policy should be applied in all cases of fraud investigated by the Council's Internal Audit contractor.
- (b) As stated in the City Council's Anti-Fraud and Corruption Strategy, each case will be judged on its merits and where appropriate, advice will be sought from the Police, the Crown Prosecution Service (CPS) or the Head of Legal Services.
- (c) The majority of prosecution cases will be dealt with by the Council's Legal Services Team. However, it should be noted that where the CPS or the Solicitors branch of the DWP are responsible for prosecuting fraud committed against the Council, their respective prosecution policies would prevail.
- (d) The Code for Crown Prosecutors will be used to determine whether it is appropriate to prosecute: a two-stage test regarding evidence and the public interest.
- (e) Where there is sufficient admissible evidence and it is in the public interest to do so, the Council will normally pursue criminal proceedings against an offender.

- (f) However, the Council will not in all cases wish to pursue criminal proceedings. The following paragraphs set out the circumstances under which the Council is more likely, or less likely to prosecute in cases where there is sufficient evidence.
- (g) The ultimate decision on whether to prosecute rests with the Council's Head of Legal Services or, where cases are being prosecuted by an external body, the Crown Prosecution Service or the Solicitors branch of the Department for Work and Pensions.

**(2) Circumstances where the City Council is likely to pursue proceedings**

(a) Any case meeting one or more of the following criteria is likely to result in the Council pursuing criminal proceedings:

- The offence was pre-planned and / or deliberate;
- The offender has had a reasonable opportunity to rectify the fraud during its commission but has not done so;
- The offence has continued for a sustained period;
- The offence is committed by a person or persons in a position of authority or trust;
- The person has previous convictions for dishonesty or has been formally warned for a similar offence within the past 5 years;
- In the case of Housing Benefit fraud only, the person has been offered but has refused an alternative to prosecution (Administrative Penalty or Local Authority Formal Caution); and / or
- The fraud was as a result of collusion or conspiracy.

**(3) Circumstances where the City Council is unlikely to pursue proceedings**

(a) Any case meeting one or more of the following criteria is likely to result in the Council **not** pursuing criminal proceedings:

- The offender is seriously or terminally ill and there is evidence to support this;

- The offender has serious mental health problems and there is evidence to support this;
- The offender is a juvenile;
- The offender made a voluntary disclosure of the offence before the City Council had any suspicions and the offender was not prompted to make disclosure;
- The offender has caused a small or nil loss to public funds;
- The offender has social factors which the City Council deem are relevant; and / or
- To prosecute would place a vulnerable person at risk (such as an informant).

### **3. Alternatives to Prosecution in Respect of Housing Benefit**

#### **(1) Background**

- (a) In cases involving offences relating to welfare benefits, the Council has the option of offering an alternative to prosecution in specified circumstances. There are two alternatives: a Local Authority Formal Caution or an Administrative Penalty.
- (b) These alternatives will only be considered where the Authority believes an offence to have been committed that could be prosecuted.
- (c) The following paragraphs set down the criteria when these alternatives would be considered appropriate.

#### **(2) Formal Caution**

- (a) The Council would normally consider it appropriate to administer a Formal Caution as an alternative to prosecution in the following circumstances:
  - The fraud is a failed attempt to obtain benefit or the value<sup>1</sup> of fraudulently obtained benefit is low; AND
  - It is known to be a first offence; AND
  - The offender has admitted the offence; AND
  - A Formal Caution or Administrative Penalty has not been previously accepted or refused.
- (b) When an Official Caution is administered, the offender must provide their written admission to the offence(s) after having admitted the offence verbally at a formal interview.

- (c) If the offender is found guilty or pleads guilty to an offence in the five years after the written admission is made, the offence(s) listed on the Formal Caution can be cited and used for sentencing purposes at court.
- (d) In addition, the DWP maintains a central record of all Formal Cautions. Local Authorities and the DWP investigators have access to these records which are checked before determining what action to take.
- (e) It is unlikely where a Formal Caution has already been issued for a welfare benefit offence in the preceding five years that a further Formal Caution would be issued. In such cases consideration would be given to prosecution.

### **(3) Administrative Penalty**

- (a) The Council would normally consider it appropriate to offer an Administrative Penalty as an alternative to prosecution in the following circumstances:
  - A Formal Caution is not considered appropriate;  
AND
  - The value of fraudulently obtained benefit is relatively low<sup>2</sup>;  
AND
  - It is known to be a first offence;  
AND
  - There is a realistic prospect of the overpayment and Penalty being paid;  
AND
  - A Formal Caution or Administrative Penalty has not been previously accepted or refused.
- (b) The Administrative Penalty is offered in accordance with section 115A of the Social Security Administration Act 1992 (as amended).
- (c) The offer of an Administrative Penalty does not require an admission to offences by the individual but there must be grounds for instituting prosecution proceedings. In accordance with the legislation, the offender must pay a financial penalty (a percentage of the recoverable overpayment) at the rate specified by the prevailing legislation. The DWP maintains a central record of all Administrative Penalties.
- (d) Local Authorities and the DWP investigators have access to these records which are checked before determining what action to take. It is unlikely, where an Administrative Penalty has already been issued for a welfare benefit offence in the



preceding five years that a further Administrative Penalty would be issued. In such cases consideration would be given to prosecution.

#### **4. Blue/White Disabled Badge and Residents Permit Prosecutions**

##### **(1) Background**

- (a) The Council provides parking concessions to people with disabilities through the national Blue Badge scheme and the Council's own White Badge scheme.
- (b) The Council also provides both on and off street parking concessions for Westminster residents, referred to collectively in this document as "Residents' Permit" schemes. These schemes are there to provide help for people who genuinely require assistance with parking due to a disability (blue / white badges) or are genuinely a resident in Westminster.
- (c) They provide a significant financial benefit when compared with paid for parking. Due to this financial benefit, the Council does experience an element of fraud in this area. To combat this, the Council's Internal Audit undertakes a programme of investigations. This Policy applies to all cases of Blue Badge, White badge and Residents Parking scheme frauds investigated by Internal Audit investigators.

##### **(2) Abuse of Badge**

- (a) In order to understand the occasions on which prosecution may be considered it is necessary to understand the various ways in which Blue Badge, White Badge and Residents Permits might be abused.
- (b) The vast majority of those applying for these schemes are not acting fraudulently and do not misuse these facilities.
- (c) However, the following is a list (though not exhaustive) of the potential ways in which Blue Badges, White Badges and Residents Permits can be abused and the actions that will be undertaken on discovery of the abuse.
- (d) These actions are based on the Internal Audit contractor's experience of fraud in this area together with information in "The Blue Badge Scheme Local Authority Guidance (England)" issued by the Department for Transport.
  - (i) **Use of a Blue badge or White Badge or Residents Permit that is no longer valid.**

If an investigation reveals the use of an expired or illegible badge, then arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible, the user of the badge will be required to surrender it. Consideration will be given to prosecuting the non-badge holder and the badge holder.

(ii) **Misuse of a valid Blue/White badge by a non-badge holder.**

Where a badge holder has allowed another person to use their badge arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible the user of the badge will be required to surrender the badge. Consideration will be given to prosecuting the non-badge holder and the badge holder.

(iii) **Use of a Blue/White badge or Residents Permit that has been reported as lost/stolen.**

Where an investigation reveals a non-badge holder is using another person's Blue / White badge or Resident's Permit that has been lost or stolen, arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible the user of the badge will be required to surrender the Blue/White badge or Residents Permit. Consideration will be given to prosecuting the non-badge holder.

(iv) **Use of a forged, copied or amended Blue/White badge or Residents Permit.**

Where an investigation reveals the use of a forged or copied Blue / White badge or Residents Permit, arrangements will be made for a Penalty Charge Notice to be issued for any parking offences that have occurred. If possible, the user of the badge will be required to surrender the badge. Consideration will be given to prosecuting the badge holder if the investigation has revealed evidence that they are involved in the forging/copying of the badge.

(v) **A Blue/White badge or Residents Permit that is obtained with a bogus application.**

If an investigation reveals that false information or documents has been provided in respect of a Blue Badge, White Badge or Residents permit application, consideration will be given to prosecuting the applicant

(vi) **Use of Residents Permit by a person who does not reside in Westminster**

If an investigation reveals that the holder of a Residents Permit is using the permit but they are not resident at their declared home address then consideration will be given to prosecution.

- (e) Where an investigation reveals that the misuse of a Blue badge, White badge and Residents permit appears to have occurred due to a mistake then the badge / permit holder will be provided with details of the correct use.
- (f) The Council may give consideration to withdrawing a Blue badge, White badge or Residents permit if there is repeated misuse.

**5. Decisions Outside the Scope of Normal Operations**

- (1) There may be a small number of cases where, although the value / duration of the fraud would normally results in prosecution, there are extenuating circumstances. In these exceptional cases, an alternative to prosecution will be considered.
- (2) To provide transparency in the decision making process, such cases will be brought to the attention of the Tri-Borough Director of Audit and Fraud and the Head of Legal and Democratic Services by the Internal Audit contractor for approval. The decision on whether or not to prosecute rests with the Head of Legal and Democratic Services.

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**CHAPTER 8 – ACCESS TO INFORMATION**  
**PROCEDURE RULES**

# **1. ACCESS TO INFORMATION PROCEDURE RULES**

## **1.1. SCOPE**

(1) These rules apply to all meetings and decisions of the Council, the Executive (Cabinet) and its Committees and to all meetings of the Council, Policy and Scrutiny Committees and Council Committees and their Sub-Committees.

## **1.2. ADDITIONAL RIGHTS TO INFORMATION**

(1) These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## **1.3. RIGHTS TO ATTEND MEETINGS**

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

## **1.4. NOTICES OF MEETING**

(1) At least five clear days' notice of any meeting by posting details of the meeting at Westminster City Hall, 64 Victoria Street, London, SW1 (the "designated office") or on its website.

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

(1) Copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out shall be made available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

## **1.6. SUPPLY OF COPIES**

(1) The Council will 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
- iii. if the Chief Executive thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

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

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

- i. the minutes of the meeting, (or records of decisions taken, together with reasons, for all meetings of the executive) excluding any part of

- the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- ii. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
  - iii. the agenda for the meeting; and
  - iv. reports relating to items when the meeting was open to the public.

### **1.8. BACKGROUND PAPERS**

- (1) The author of every report will set out a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:
  - i. disclose any facts or matters on which the report or an important part of the report is based; and
  - 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 (as defined in section 1.10) and in respect of executive reports, the advice of a political advisor.
- (2) The Council will make available for public inspection at City Hall for four years after the date of the meeting a copy of each of the documents on the list of background papers. These documents shall also be placed on the City Council's website.

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

- (1) These rules constitute the written summary of the public's rights to attend meetings and to inspect and copy documents which must be kept at and available to the public at Westminster City Hall, 64 Victoria Street, London, SW1.

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

#### **Confidential information – requirement to exclude public**

- (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.

#### **Exempt information – discretion to exclude public**

- (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. The Chief Executive shall have authority to place items and exempt reports which in their opinion should be regarded as exempt pending decision of the relevant decision making body.

### **Meaning of confidential information**

- (3) 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**

- (4) Exempt information means information falling within the following categories:

#### **Part 1**

- i. Information relating to any individual.
- ii. Information which is likely to reveal the identity of an individual.
- iii. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- iv. 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 holders under, the authority.
- v. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- vi. Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed upon a person; or (b) to make an order or direction under any enactment.
- vii. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### **Part 2**

#### **Qualifications to the above exempt information:**

- i. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Acts 1965 – 1978 (e) the Building Societies Act 1986 (f) The Charities Act 1993.
- ii. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- iii. Information which – (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt by virtue of paragraph (a) or (b) above is exempt information if and so long as, in all the circumstances



of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **1.11. PROCEDURES PRIOR TO PRIVATE MEETINGS**

(1) At least 28 clear days before a private meeting of the Cabinet or a Cabinet Committee or part thereof the Chief Executive shall:

- i. make available at Westminster City Hall, a notice of its intention to hold the meeting, or part thereof in private; and
- ii. publish that notice on the Council's website.

(2) A notice published in accordance with (1) above will include the reasons for the meeting being held in private.

(3) At least five clear days before a private meeting, Chief Executive on behalf of the Cabinet or Cabinet Committee must:

- i. make available at City Hall a further notice setting out the intention to hold a meeting or part thereof in private; and
- ii. publish the notice on the Council's website.
- iii. The notice referred to above must include:
  - a statement of the reasons for the meeting.
  - details of any representations received about why the meeting should be open to the public; and a statement of its response to any such representations.

(4) Where the date by which a meeting must be held makes compliance with the requirements in (a), (b) and (c) above impracticable, the meeting may only be held in private where the agreement from:

- i. the Chairman of the relevant Policy and Scrutiny Committee; or
- ii. if there is no such person, or if the Chairman of the relevant Policy and Scrutiny Committee is unable to act the Lord Mayor

that the meeting or relevant part thereof is urgent and cannot reasonably be deferred.

(5) As soon as reasonably practicable after a decision has been obtained in accordance with (4) above the Chief Executive shall:

- i. make available at the City Hall a notice setting out the reasons why relevant business is urgent and cannot reasonably be deferred; and
- ii. also include the notice on the Council's website.

### **1.12. PUBLICITY IN CONNECTION WITH EXECUTIVE DECISIONS**

(1) Where the Cabinet, a Cabinet Committee, an Individual Cabinet Member or an Officer intends to make a Key Decision that decision must not be taken until details have been published in accordance with (2) below setting out:

- i. that a Key Decision is to be made on behalf of the City Council;
  - ii. the matter in respect of which the decision is to be made;
  - iii. where the decision is to be taken by an individual Cabinet Member the name and title and if by the Cabinet or a Cabinet Committee a list of the Members;
  - iv. the date on which, or the period within which, the decision is to be made;
  - v. a list if the documents to be submitted for consideration in relation to the matter in respect of which the Key Decision is to be made;
  - vi. the address from which, subject to any prohibition or restriction on their disclosure copies of, or extracts from, any document listed is available;
  - vii. any other documents relevant to those matters which may be submitted, and
  - viii. the procedure for requesting details of those documents.
- (2) At least 28 clear days before a Key Decision is made, the document referred to in (a) above must be made available for inspection by the public:
- i. at City Hall; or
  - ii. on the website

### **1.13. GENERAL EXCEPTION**

- (1) Subject to 1.14 below, where the publication of the intention to make a Key Decision under 1.12 above is impracticable, that decision may only be made:
- i. where the Chief Executive has informed the Chairman of the relevant Policy and Scrutiny Committee, or if there is no such person, each member of the relevant Policy and Scrutiny Committee in writing of the matter about which the decision is to be made.
  - ii. where the Chief Executive has made available for inspection by the public and published on the website a copy of the notice issued pursuant to (i) above, and
  - iii. after five clear days have elapsed following the day on which the Chief Executive had made available the notice referred to in (ii) above.
- (2) As soon as reasonably practicable after the Chief Executive has complied with (a) above they must make available at the City Hall or on the website, a notice setting out the reasons why compliance with 1.12 above is impracticable and publish it on the website.

### **1.14. CASES OF SPECIAL URGENCY**

- (1) Where the date by which a Key Decision must be made, makes compliance with 1.12 above impracticable the decision may only be made where the Cabinet, Cabinet Committee, Individual Cabinet Member or Officer has obtained agreement from:

- i. the Chair of the relevant Policy and Scrutiny Committee; or
  - ii. If there is no such person, or if they are unable to act, the Lord Mayor.
- (2) As soon as reasonably practicable after the decision maker has obtained agreement under (1) above the Chief Executive must make available at City Hall, or on the website, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

#### **1.15. RECORDING OF EXECUTIVE DECISIONS MADE AT MEETINGS**

- (1) As soon as reasonably practicable after a meeting of the Cabinet or a Cabinet Committee the Chief Executive shall produce a written statement for every executive decision setting out:
- i. a record of the decision including the date on which it was made;  
a record of the reasons for the decision;
  - ii. details of any alternative options considered and rejected by the Cabinet or Cabinet Committee;
  - iii. a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet or Cabinet Committee;
  - iv. in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

#### **1.16. RECORDING OF EXECUTIVE DECISIONS MADE BY INDIVIDUAL CABINET MEMBERS AND OFFICERS**

- (1) As soon as reasonably practicable after an individual Cabinet Member has made an executive decision the Chief Executive shall produce a written statement of that executive decision setting out:
- i. a record of the decision and the date it was made;
  - ii. a record of the reasons for the decision;
  - iii. details of any alternative options considered and rejected by the Cabinet Member;
  - iv. a record of any conflict of interest declared by any Cabinet Member consulted by the Cabinet Member, which relates to the decision;
  - v. in respect of any conflict of interest, a note of any dispensation granted by the Chief Executive.
- (2) As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer shall produce a written statement which must include:
- i. a record of the decision and the date it was made;
  - ii. a record of the reasons for the decision;

- iii. details of any alternative options considered and rejected by the officer when making the decision;
  - iv. a record of any conflict of interest declared by any Cabinet Member consulted by the Cabinet Member, which relates to the decision;
  - v. in respect of any conflict of interest, a note of any dispensation granted by the Chief Executive.
- (3) In respect of (i) and (ii) above these shall be available for inspection by Members of the public at City Hall and placed on the website.

#### **1.17. ACCESS BY THE PUBLIC TO REPORTS**

- (1) If the Head of Governance and Councillor Liaison thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 1.10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

#### **1.18. REPORT TO COUNCIL**

- (1) If a Policy and Scrutiny committee thinks that a key decision has been taken which was not:
- i. treated as being a Key Decision.
  - ii. The Policy and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Committee may specify. The report to include:
    - the decision and the reason for the decision.
    - the decision maker by which the decision was made; and
    - if the Cabinet are of the opinion that the decision was not a Key Decision the reason for that opinion.
- (2) In the above circumstances, 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.
- (3) In any event the Leader will submit reports to the Council at least once per annum on the executive decisions taken in the circumstances set out in Rule 1.14 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **1.19. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

- (1) Where an individual member of the Cabinet receives a report which they intend to take into account in making any decision, then they will not make the decision until the report has been included in the List of Executive Decisions for at least 5 clear days, except in cases of special urgency as set out in 1.14 above.
- (2) On giving of such a report to an individual decision maker (whether or not it is a public report), a copy of it will be given to every member of the relevant Policy and Scrutiny committee as soon as reasonably practicable, and where appropriate make it publicly available at the same time, including on the Council's website.
- (3) Any document which:
  - i. is in the possession or under the control of the Cabinet, and
  - ii. Contains material relating to any business to be transacted at a public meeting must be made available for inspection by any member of the Council.
- (4) Any document which is required by (3) above to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that:
  - i. Where the meeting is convened at shorter notice, such documents must be available for inspection when the meeting is convened; and
  - ii. Where an item is added to the agenda at shorter notice, such a document that would be required to be available under (a) above must be available for inspection when the item is added to the agenda.
- (5) Any document which:
  - i. Is in the possession or under the control of the Cabinet, and
  - ii. Contains material relating to:
    - any business transacted at a private meeting;
    - any decision made by an individual Cabinet Member in accordance with executive arrangements;
    - or
    - any executive decision made by an officer

Must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by a Cabinet Member or an officer immediately after the decision has been made.

- (6) Any document which is required by paragraph (5) above to be available for inspection by any member of the Council must be made available, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

- (7) The requirements in (1) and (2) above do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description for the time being falling within Part 1 of Schedule 12A of the Local Government Act 1972.
- (8) Notwithstanding paragraph (5), paragraphs (1) and (3) do require the document to be available for inspection if the information is of a description for the time being falling within:
- i. Paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract); or
  - ii. Paragraph 6 of Schedule 12A of the 1972 Act.

**1.20. ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF POLICY AND SCRUTINY COMMITTEES**

- (1) Subject to paragraph (3) below, a member of a Policy and Scrutiny Committee is entitled to a copy of any document which:
- i. is in the possession or under the control of the Cabinet, and
  - ii. contains material relating to:
    - any business that has been transacted at a meeting of a decision making body of the Council;
    - any decision that has been made by an individual Cabinet Member in accordance with executive arrangements;
    - or
    - any decision that has been made by an officer in accordance with executive arrangements.
- (2) Subject to (3) below, where a member of a Policy and Scrutiny Committee requests a document which falls within (a) above they must be provided as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.
- (3) No member of a Policy and Scrutiny Committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
- i. an action or decision that the Member is reviewing or scrutinising; or
  - ii. any review contained in any programme of work of such a Committee or Sub-Committee.
- (4) (d) Where the Cabinet determines that a member of a Policy and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in (1) or (3) above it must provide the Committee with a written statement setting out its reasons for that decision.

## **1.21. INSPECTION AND SUPPLY OF DOCUMENTS**

- (1) Any document required by any provision of these Regulations to be open to inspection by members of the public must be available for inspection:
  - i. at all reasonable hours at City Hall;
  - ii. on the website.
- (2) Subject to paragraph (4), where a document is to be available for inspection by a person under any provision in these Regulations, the person may:
  - i. make a copy of the whole or part of the document; or
  - ii. require the person having custody of the document to supply the person requiring inspection a copy of the whole or part of the document, on payment by the person requiring the copy to the relevant local authority of postage, copying or other necessary charge for transmission.
- (3) Subject to paragraph (4), any member of the public may, in any publicly available medium, reproduce or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Regulations.
- (4) Paragraphs (2) and (3) do not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the relevant local authority, nothing done pursuant to that paragraph constitutes an infringement of the copyright.
- (5) Where any document required by these Regulations to be open to inspection by the public:
  - i. is supplied to or available for inspection by members of the public; or
  - ii. is supplied for the benefit of any newspaper in pursuance of regulation 7(7) or 14(2),  
the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.
- (6) Any written record of an executive decision or any report required by Regulation 1.14 to be available for inspection by members of the public, must be retained by the relevant local authority and made available for inspection by the public for a period of at least six years beginning on the date on which the decision, to which the report or record relates, was made.
- (7) Any background papers required to be available for inspection by members of the public must be retained by the relevant local authority and be available for inspection by the public for a period of at least four years beginning on the date on which the decision, to which the background papers relate, was made.

**1.22. APPLICATION OF THESE PROVISIONS TO ALL MEMBER LEVEL EXECUTIVE DECISIONS**

- (1) As far as possible the Council will use its best endeavours to make all forthcoming Member level Cabinet decisions in accordance with the requirements of Section 1.12 above. However, only those matters deemed to be Key Decisions shall be required, if necessary, to comply with the requirements set out in Sections 1.14 and 1.15 above.



# Co-Opted Membership Scheme

## 34.1 VOTING RIGHTS OF CO-OPTED MEMBER

The Council's Scheme for voting co-opted Members is limited to the Parent Governor Representatives, duly elected to the relevant Policy and Scrutiny Committee as long as they remain qualified to serve on the Committee.

## 34.2 PARENT GOVERNOR REPRESENTATIVES

Parent Governor Representatives (PGRs) ensure that parents of children at school within the area of the local authority have an apolitical voice on local education matters and all matters to do with children and young people. They hold the local authority to account for education policy and decision making.

### Who can become a PGR

Any parent governor (who is still a parent or a child in a maintained school, academy or Free School within the authority can stand for election, even if they only have a short time left to serve.

### Speaking and Voting rights on the Committee

In accordance with The Local Authorities (Committee System) (England) Regulations 2012 (Part 4) Regulations 11 and 12, 'A local authority may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee.

PGRs are full and equal members of the committee and have the right to speak on matters under discussion. They have full voting rights on any question which relates to any children and young person functions, which are the responsibility of the executive of the authority.

### Role of a PGR

The role of the PGR is to:

- act as an apolitical voice for parents in the area
- represent the main issues which concern parents of pupils in schools maintained by the authority
- attend and contribute to the committees to which they have been appointed
- establish good relations with other members and officers
- act with due propriety according to standards laid down for conduct in local government.

### Support for the role

Access to training is available for all PGRs and they are eligible to claim appropriate allowances for their role.

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## **Contracts Procedure Rules (Procurement)**

The City Council's Contracts Procedure Rules can be found in the Procurement Code and the Contracts Standing Order. The Procurement Code can be found in this Constitution and the Contracts Standing Order is included within this Constitution.

### **35.1 Contracts Standing Order**

- (1) This Standing Order shall be followed in respect of all matters effecting contracts for works, goods or services.
- (2) All contracts entered into by the Council shall comply with this Standing Order and the Procurement Code.
- (3) The terms of the Procurement Code may be revised from time to time by the Chief Executive provided that no such revision may affect the powers or responsibilities of the Cabinet or Cabinet Members, Committee or Sub-Committee (save with their express consent) or any obligations imposed by law provided further that any such revision shall be reported to the relevant Cabinet Member and the Audit and Performance Committee.
- (4) The Council, the Cabinet, a Cabinet Member, the Chief Executive and the City Treasurer or any other Chief Officer may, but only in circumstances specifically defined in the Procurement Code, waive the obligations to comply with the Procurement Code where for any reason they consider such a waiver to be appropriate.
- (5) All contracts entered into on behalf of the Council in the course of the discharge of an executive function shall be made in writing. All such contracts of a value of £175,000 (other than letters of acceptance prior to formal engrossment – which may be signed by the Director of Law or external solicitors on the Council's behalf) must either be signed by at least 2 officers of the Council or made under the Common Seal of the Council attested by at least one officer.
- (6) For the purposes of this Standing Order the term "Chief Officer" relates to any Statutory or non-Statutory Chief Officer within the meaning of Section 2 of the Local Government and Housing Act 1989.

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# City of Westminster Procurement Code

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VERSION V1.0

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## **1. Introduction**

### **1.1. Executive Summary**

- 1.1.1. This Procurement Code (the Code) forms part of the Westminster City Council (the Council) Constitution. It is intended as a 'living document and will be updated to reflect changes in internal policy and procedures as well as any changes in legislation as they arise.
- 1.1.2. Procurement is defined as the process of acquiring works, goods and services and plays a critical role in the delivery of effective services, developing relationships with our supply base and partner organisations. The process spans the whole cycle from identification of needs, through to the end of a services contract or the end of the useful life of an asset. It involves options appraisal and the critical "make or buy" decision, and in general, as the value increases, so too does the complexity and risk.
- 1.1.3. The Council is subject to legal requirements such as the Public Contracts Regulations 2015 (PCR 2015) and the Concession Contracts Regulations 2016 (CCR 2016), which sets out the procurement procedures, thresholds and the rules that must be followed. This Code sets out the Council's approach to procurement activity according to risk & contract value and the appropriate approval processes. These rules and guidelines apply to all Members, officers of the Council and any persons or organisations that are responsible for the conduct of procurement and contract management activity on behalf of the Council.

### **1.2. Purpose**

- 1.2.1. The intention of this Code and supplementary guidelines is to ensure that commercial activity is effective, making best use of Council resources and delivering Best Value, taking into account cost and quality, over the whole life of the contract. It serves as a guide to those involved to help give practical effect to the Council's priorities whilst at the same time mitigating against commercial and compliance risk, protecting officers, Council reputation and to operate within the law.
- 1.2.2. Procurement activity should demonstrate:
- Value for money; to ensure Council budgets are optimised as much as possible in relation to securing the desired outcomes;
  - Quality; as is required to secure the desired outcome, without over specification or greater cost;
  - Due process; to ensure procurement activity is conducted in an open and transparent manner and Contractors are treated fairly and equally;
  - Responsible Procurement; to reflect ethical, social, environmental and economic impacts and drive Council policies such as the City for All Vision & Strategy 2020/21, Living Wage, Climate Emergency Declaration and Supplier Diversity and Inclusion;

- Competence; to validate that officers demonstrate high commercial and professional standards and evidence-based decision making.

1.2.3. Council officers can access additional guidelines and information about procurement on the Procurement & Commercial Services hub [Intranet pages](#)

### **1.3. Scope**

1.3.1. This Code covers all works, goods and services procured by or on behalf of the Council whether it be for;

- The Council only;
- The Council and The Royal Borough of Kensington and Chelsea (RBKC). This will include all activity commissioned by the shared services on a Bi-Borough or sovereign basis;
- Collaborative activity with other local authorities where the Council is the lead authority or where the estimated total contract value is £100,000 or more.

1.3.2. The Code shall be followed in the conduct of all procurement and contract management activity and must be followed by all Members, officers of the Council and any parties that are responsible for supplier selection and awarding, managing and monitoring contracts on behalf of the Council.

1.3.3. Council Wholly Owned Companies will be reviewed on a case by case basis to determine whether they are subject to the legal requirements of the PCR2015 and CCR2016, and whether this Code and/or wider Council Governance must be followed when procuring works, goods or services.

1.3.4. To help determine an appropriate and proportionate approach, Procurement activity is categorised on the basis of contract value and risk.

1.3.5. Procurement projects are considered 'High Risk' where, it is deemed on a case by case basis that the criticality of service, product interruption or loss may have a negative impact to the Council. A procurement project may be considered high risk if it;

- has a commercial impact that exceeds >£100,000
- has significant public/customer or market visibility or critical effect on other key services or work programmes;
- could result in loss of business or regulatory control;
- supports or is a statutory service or involves the capture or storage of personal data or sensitive information;
- could have significant negative reputational or political impact;
- could result in a loss of critical functions/systems for more than 2 days;
- creates a high level of commercial dependency (>30% of a contractor's business or vice versa);



- will require an interface with or connection to Council IT systems or networks

## **2. Responsibility and accountability**

### **2.1. Overall accountability**

- 2.1.1. Accountability for services that are provided by a third-party rest with the commissioner or business owner.
- 2.1.2. It is the responsibility of the service owner to assign a responsible officer to act as the 'voice of the client', to engage early with Procurement and Commercial Services on new commissioning ideas, contract renewals or new business initiatives, and management of the contract after it has been awarded.
- 2.1.3. The Procurement and Commercial Service will provide the necessary professional leadership, support and technical inputs throughout the process as detailed in its [Core Service Offer](#). This will include guiding the client through the relevant governance requirements throughout the procurement process, support with coordination of professional inputs from other key stakeholders (e.g. Legal, Finance, IT, Property) and embedding the Contract Management Framework.

### **2.2. Conduct**

- 2.2.1. The Council expects all officers and elected members involved in procurement to behave with the highest levels of probity, integrity and in accordance with the Bribery Act 2010 and the Codes of Conduct detailed within the Council Constitution. Any parties acting on behalf of the Council must also follow the same principles as well as any expressed contractual provisions relating to their involvement in the procurement.

### **2.3. Cabinet Member decisions**

- 2.3.1. Any decision requiring Cabinet Member approval is the responsibility of the project lead to obtain. Cabinet Members are elected representatives who make informed decisions of significant value or of multi departmental interest. Where there is delegated authority to incur expenditure, all officers involved in the procurement process shall ensure they follow this Code, the requirements set out in the Council Finance Procedure Rules and the Cabinet Member Terms of Reference. For collaborative procurement activity, officers should note the requirements set out under 3.4.2

### **2.4. Conflicts of interest**

- 2.4.1. Officers, including external parties acting on behalf of the Council who find themselves in a situation of potential, perceived or actual conflict of interest must disclose it formally in writing to the project lead as soon as they are aware.

### **2.5. Transparency Code**

- 2.5.1. The Council will comply with its statutory obligations set out under the Local Government Transparency Code 2015, to publish data such as information on

all tenders issued, contract awards and expenditure. An extract of data to be published is set out under [Appendix 5](#).

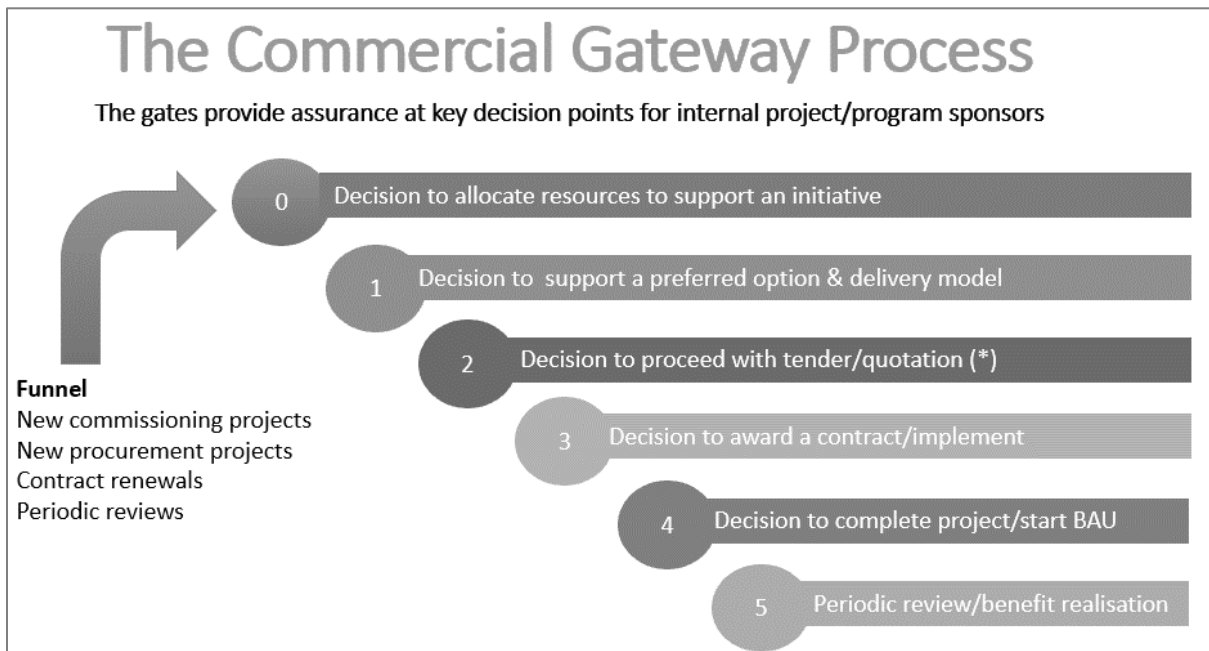
## 2.6. Interpretation of this code

2.6.1. The overarching responsibility of Procurement and Commercial Services is with the Director of Commercial Partnerships. Any interpretation of this Code will be clarified by the Director of Commercial Partnerships (or delegated authorities as appropriate)

## 3. Operational principles

### 3.1. Procurement Governance

3.1.1. Procurement governance within the Council is aligned to a simple commercial gateway process which tracks a projects journey from inception through to the delivery of business outcomes.



3.1.2. This is overseen by the Commercial Gateway Review Board (CGRB) which is the single assurance body in respect of procurement activity.

3.1.3. CGRB will review and endorse commercial activity as projects progress through the stage/gate process and the level of governance will be proportionate to the risk and commercial impact. [Appendix 1](#) provides a detailed overview of the commercial gateway process.

3.1.4. **For procurement projects that are deemed to be High Risk, or that have an estimated total contract value of £100,000 or more, Gates 2 and 3 are mandatory.** CGRB will formally review a Gate 2 'Procurement Strategy' once the lead officer wishes to formally go to market and a Gate 3 'Contract Award proposal' once tender submissions have been evaluated and the lead officer wishes to award a contract. CGRB members will recommend to the appropriate

officer, whether the Procurement Strategy or Contract Award should proceed to approval.

3.1.5. CGRB may review projects at other gates by exception dependent on risk. The gateways and criteria for submission to the Board are set out in the CGRB Terms of Reference.

### 3.2. Alignment of commissioning and procurement activity

3.2.1. Accountability for managing the overall commissioning or business project remains with the Directorate / services area leads. At a high level this accountability includes;

- Managing the overall business project/program within which the procurement aspect is a part;
- Ensuring that there is a clear business rationale for what is being proposed (e.g. business case or commissioning strategy) and the necessary business approvals associated with this;
- Defining business needs and priorities in a way that can be translated into a specification and tendering strategy;
- Securing financial and other resources to undertake the work;
- Managing the contract after it has been awarded.

3.2.2. The Procurement and Commercial Service will work collaboratively to develop a procurement approach that is most able to secure the desired business and commercial outcomes and will work with Directorate / Service areas throughout all stages of the commercial/gateway process.

3.2.3. Procurement projects are categorised as follows;

<b>Procurement and Commercial Services to lead on all Type A and B procurement activity</b>	
Type A	Type B
<p>Total contract value (or concession) is over the relevant PCR/CCR thresholds (or value equivalents if using an existing framework or DPS)</p> <p>All new frameworks or Dynamic Purchasing systems</p> <p>All 'High Risk' projects</p>	<p>Total contract value is over £100,000 but below the relevant PCR/CCR value thresholds (or value equivalent if using an existing framework or DPS); and</p> <p>Is not 'High Risk'</p>
<b>Directorate / service areas to lead on all Type C &amp; D procurement activity</b>	
Type C	Type D
<p>Total contract value is over £10,000 but below £100,000</p> <p>Is not 'High Risk'</p>	<p>Total contract value is below £10,000 and</p> <p>Is not 'High Risk'</p>

3.2.4. Procurement and Commercial Services will provide a ‘fully managed’ tendering service for all Type A and B procurement activity and all projects deemed to be High Risk, as outlined in the. [‘Core Service offer’](#)

3.2.5. Directorates / service areas will lead on all Type C and D procurement activity with appropriate support, guidance and training from Procurement and Commercial Services.

### **3.3. Procurement principles**

3.3.1. The procurement principles set out below are well established, promote competition and ensure compliance with public procurement law and statutory duties:

- **Transparency:** contract procedures must be transparent. Opportunities, decision and award outcomes should generally be publicised;
- **Proportionality:** procurement procedures and decisions must be proportionate to the scale and complexity of the project;
- **Non-discrimination & equal treatment:** potential contractors must be treated equally, and procurement activity must ensure a level playing field, i.e. not discriminate or favour any contractor or group of contractors;
- **Mutual Recognition:** must give equal validity to qualifications and standards from other Member States (where appropriate);
- **Manage Conflicts of Interest** The procurement process must recognise and manage any potential conflicts of interest that may arise in relation to a supplier selection process or commercial decision;

3.3.2. In addition to securing the desired business outcomes and priorities, officers will seek to support and drive key strategies and policies through Council contracts such as City for All, the Councils Climate Emergency, Living Wage, Sustainability and improved Social Value outcomes. For Bi-Borough or collaborative procurement activity, consideration will also be given to the participating councils key priorities, strategies and policies.

### **3.4. Collaborative procurement activity**

3.4.1. Procurement activity undertaken by two or more participating councils will follow the tendering requirements documented within the Contract Standing Orders’ of the lead council. The scope of all procurement activity where spend by the Council is likely to exceed £100,000 over the life of the contract or where it is deemed to be High Risk, may require commercial oversight and be subject to the governance of CGRB. The level of governance to be applied will be proportionate to the risk and commercial impact.

3.4.2. It is the responsibility of the lead officer to ensure the governance arrangements in respect of Key and Executive Decisions of participating councils are followed.

### 3.5. Systems

- 3.5.1. The Council is required by law to use an electronic tendering system (currently capitalEsourcing) and to make its requirements visible and accessible to the market;
- 3.5.2. Use of the system is also required for lower value quotations where the value of the contract is between £25,000 and £100,000.
- 3.5.3. This system should be used for the publication of contract opportunity and award notices as set out within [Appendix 2](#).

## 4. Establishing a new contract for works, goods, services or a concession.

### 4.1. Thresholds and approvals

- 4.1.1. The Council thresholds determine the approach to be applied to all procurement activity, the type and levels of approval.
- 4.1.2. For all low value procurements, with an estimated total contract value below £100,000 and that are low risk, the following will apply.

Contract Value and Process	Approval
Type D: Up to £10,000 and low risk Obtain at least one quote	The appropriate Corporate Leadership Team member
Type C: Meets or exceeds £10,000 and below £100,000	
Endeavour to obtain 3 quotes, using local suppliers wherever possible.	

- 4.1.3 For all procurements with an estimated total contract value of £100,000 or more, or where the activity is deemed to be high risk, the following will apply. No procurement activity can commence until prior approval of the procurement strategy is obtained and no contracts can be executed until prior approval of the contract award.

Contract Value and Process	Approval
Type B: £100,000 or more but below the relevant PCR/CCR thresholds  Must be competed with a minimum of 5 suppliers invited to quote	Procurement Strategy – Executive Leadership Team Member following CGRB endorsement  Contract Award - Executive Leadership Team Member if below £1,500,000 (Below £300,000 for Consultancy agreements) following CGRB endorsement
Type A: Meets or exceeds the PCR/CCR thresholds  Must follow the requirements set out within the PCR/CCR thresholds	Contract Award – Cabinet Member if meets or exceeds £1,500,000 (£300,000 for Consultancy Agreements), following recommendation to approve from the appropriate Executive Leadership Team member and CGRB endorsement

- 4.1.3. It should be noted that compliant use of Frameworks and or Dynamic Purchasing Systems are acceptable. This will include recommendations to proceed with a compliant direct award in place of running a mini competition where it can be demonstrated that this offers Best Value. The detailed procedural requirements and approval processes associated with these thresholds are set out within [Appendix 2](#).
- 4.1.4. Officers should calculate a genuine pre-estimate of the total contract value excluding Value Added Tax. This should be for the whole of the predicted contract period which must include any provisions for extension. If the terms of a contract are yet to be established or are uncertain, then a 4-year contract should be assumed for the purposes of estimating the contract value.
- 4.1.5. When procuring assets (equipment) officers should ensure that the whole life costs are included such as, maintenance / after care-support.
- 4.1.6. Officers must not deliberately sub-divide or disaggregate the total contract value for the purposes of avoiding thresholds, oversight and governance.
- 4.1.7. Works, goods (supplies) and services are defined terms in the PCR 2015. [Appendix 3](#) sets out these definitions.

## **4.2. Section 20**

- 4.2.1. Procurements relating to goods, services and works for residential properties leased by Westminster City Council may be subject to statutory requirements for the Council to consult with leaseholders under Section 20 of the Landlord and Tenant Act 1985 (as amended).
- 4.2.2. Officers responsible for managing the properties for which the procurements are being undertaken are also responsible for undertaking the consultation with leaseholders and will need to factor in appropriate lead times.

## **4.3. Form and term of Contract**

- 4.3.1. The Councils preference is to let contracts using its own standard terms and conditions. Variations to these terms can only be made with the agreement of Legal Services.
- 4.3.2. The use of industry standard terms or a supplier's terms and conditions must be reviewed and approved by Legal Services for all Type A, B & C procurement projects.
- 4.3.3. Where appropriate, the Council purchase order terms and conditions can be used for Type C and D procurement projects
- 4.3.4. No goods will be delivered, and no works or services shall commence without a written and executed contract in place.

4.3.5. All contracts must have a defined duration and provision(s) for proposed extensions and termination. Contracts shall not have the provision for automatic roll over or be allowed to exist in perpetuity.

4.3.6. All contracts with a value of £175,000 must be signed by at least two authorised officers of the Council or made under the common seal attested by at least one officer, in accordance with the Contract Standing Order 36.1 (5). The Director of Law, or other lawyer authorised by him or her, may decide by what means and in what form (including but not limited to an electronic seal) the common seal is to be used.

#### **4.4. Evaluation Criteria**

4.4.1. Officers shall base the award of contracts on the Most Economically Advantageous Tender (MEAT) to be assessed on the basis of the best value (price-quality ratio).

4.4.2. The default evaluation criteria is set at 60:40 price:quality and the rationale to deviate from this ratio must be documented within the Procurement Strategy. For procurement activity valued at £100,000 or more, officers will be expected to present the basis for the proposed evaluation criteria, and any relative weightings attached to these, to CGRB. In constructing the evaluation criteria, consideration should be given to elements such as; complexity of the contract requirements; budget requirements and/or constraints; market intelligence such as competitive pressure, capacity, capability, service profile and reputational risk, and market maturity.

#### **4.5. Responsible Procurement**

4.5.1. Responsible Procurement is generally defined as the act of sourcing works, goods and services in a way that considers the ethical, social, environmental and economic impacts (both positive and negative). The Council expects officers to investigate every opportunity to incorporate Responsible Procurement into all activity, by considering how contracts will drive and support the Councils key strategies and policies.

4.5.2. **Living Wage:** The Council is an accredited Living Wage Employer. The Council is committed to promoting and implementing the real Living Wage (LW) standard which means:

- adoption of the LW by Contractors (and sub-contractors) deemed in scope at the point a new contract commences; and to
- seek voluntary adoption of the LW by Contractors (and sub-contractors) not currently paying it at the point where break clauses / options to extend exist.
- Officers should follow the guidelines set out in the Councils Living Wage policy

4.5.3. **Social Value:** The Council is committed to fulfilling its obligations under The Public Services (Social Value) Act 2012 and the London Government Act 2000. Officers shall maximise the potential to generate social value outcomes from



procurement activity through a standardised approach that is aligned to the **City for All Vision and Strategy**.

- 4.5.4. Social value outcomes may be achieved as part of the subject matter of the contract (i.e. the beneficial impact of the contract itself)
- 4.5.5. In addition to the beneficial aspects of the contract itself a minimum of 5% of the total weighting in the Award Criteria must be allocated to **additional** social value benefits offered by each bidder. This should be applied to all contracts that have an estimated total contract value of £100,000 or more. A Responsible Procurement Delivery Plan (RPDP) has been developed to form part of the procurement documentation and it is aligned to the three pillars set out in the City for All Vision & Strategy 2020/21. The RPDP of the winning bidder will form part of the final contract.
- 4.5.6. Officers should make clear to potential bidders that where social value commitments have already been secured through Section 106 agreements<sup>1</sup>, that they are not duplicated within their tender submission for a new contract award.
- 4.5.7. **Climate Emergency Declaration:** The Council declared a climate emergency in September 2019, to become a net zero carbon emissions council by 2030 and to put in place policies which will achieve net zero carbon emissions in the City of Westminster by 2040. As the Council develops its strategy and approach to delivering these ambitious targets, to reduce carbon intensity, officers will be expected to embed innovative approaches to service design, specification and demand challenge in pre-procurement activity and to influence suppliers and supply chains through the tender process and post contract management.
- 4.5.8. **Supplier Diversity and Inclusion:** The Council is developing an ambitious programme of work, implementing a range of initiatives to create a culture of diversity and inclusion both internally and externally. As this matures, officers will be expected to support proactive procurement initiatives to help create and develop a more diverse and inclusive supply base, which includes examining the supplier workforce to become more reflective and representative of the Westminster communities it serves over the short, medium and long term. The intention is to “ensure all relevant, potential suppliers have the fair and equal opportunity to compete for Council business. This can include micro, small and medium enterprises, social enterprises, local vendors, and enterprises that are majority owned and controlled by minority groups”<sup>2</sup>.
- 4.5.9. Further support and guidelines on Responsible Procurement can be found on the Procurement hub intranet pages.

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<sup>1</sup> Section 106 (S106) Agreements are legal agreements between Local Authorities and developers; these are linked to planning permissions and can also be known as planning obligations

<sup>2</sup> <https://www.cips.org/knowledge/procurement-topics-and-skills/equality-diversity-and-inclusion/supplier-diversity/>



#### **4.6. Document Retention**

- 4.6.1. The Council regulations for the retention of tenders, quotations and contracts are set out in Westminster's Retention of Documents Schedule.
- 4.6.2. Original signed or sealed contracts must be placed in the Councils Records Management once the documentation has been completed. Soft copies of all contracts over £25,000 must be uploaded onto capitalEsourcing by the lead officer or Contract Manager and by the procurement lead if the contract is over £100,000 in value.
- 4.6.3. Contracts awarded under seal must be kept for 12 years from the date of final delivery or completion of the contract.

#### **4.7. External Frameworks and Dynamic Purchasing Systems**

- 4.7.1. Prior agreement should be sought from Procurement and Commercial Services before a DPS or Framework Agreement is used, or access agreement signed.

#### **4.8. Revenue Earning Contracts**

- 4.8.1. Where the Council wishes to enter into a revenue earning contract, the officer shall advise:
- The Corporate Leadership team member, when revenue generated will be less than £50,000
  - The Executive Leadership team member or Cabinet Member, when revenue generated will be more than £50,000

#### **4.9. Concession Contracts**

- 4.9.1. The procurement of concession contracts is regulated by the Concession Contracts Regulations 2016 as amended, which sets out the rules on the procurement procedures and the thresholds that apply.
- 4.9.2. A concession contract is generally defined as the provision of services to or on behalf of the Council, but one where service users as opposed to the Council make payments to the Contractor for use of the service. For example, where the Council allows a third party to commercially exploit a Council asset to provide services, and the provider in turn pays the Council an agreed level of rent for a fixed period and/or a share in the profits resulting from the commercial activity undertaken on or from the premises. Two key factors that distinguish concessions from normal works or services are:
- consideration must consist either solely in the right to exploit the services (i.e. to make money from third parties) or in that right together with payment from the procuring body
  - the contract must transfer to the contractor the operating risk (encompassing demand or supply risk or both); plus, real exposure to the vagaries of the market

- 4.9.3. The same procurement principles apply to concessions contracts as per public contracts and officers are expected to follow a process that demonstrates Best Value.
- 4.9.4. When determining the estimated total contract value of a concession contract, the estimated total turnover to be generated over the life of the concession contract for the works and services is to be used. This will determine the procurement type, the approach and approval processes to be followed as set out within this Code.

## **5. Managing or extending an existing contract**

### **5.1. Contract Management**

- 5.1.1. Contract Management is the responsibility of the associated service department which includes ensuring a named Contract Manager is identified and assigned for all contracts and for maintaining information within capitalEsourcing.
- 5.1.2. A Contract Management Framework has been developed to create a consistent approach to contract management activity within the Council. Contract Managers are expected to follow this guidance and will be responsible for monitoring contract performance and total contact spend over the full term of the contract, as well as ensuring that any variations are compliant with the public procurement law and item 5.2 below
- 5.1.3. When monitoring spend, Contract Managers must ensure that expenditure is in line with any budgetary or contractual limits that have been set. In the event such limits are near to being reached, this should be highlighted to the budget holder in good time so that appropriate action can be taken.

### **5.2. Contract extensions and variations**

- 5.2.1. Officers must consult Procurement and Commercial Services and/or Shared Legal Services, on all contract extensions or variations to ensure compliance with the PCR 2015 and CCR 2016. It should be noted that the extent of permitted variations is limited by law and require specific conditions to be fulfilled.
- 5.2.2. Exercising an option to extend or varying the terms of a contract may require the same approvals as the contract award, appropriate to the total contract value over the life of the contract. This will depend on the specific factors and assessment of any potential risk(s) concerning the proposed extension or variation. The following are the minimum requirements that will apply.

Criteria	Contract Value	Approval
Exercising an option to extend a contract; OR	Below £100,000 and low risk	Does not require review by CGRB The appropriate Corporate Leadership Team member can approve
Exercising a variation, extension of contract or contract overspend that will account for 10% or more of the original contract value	£100,000 or more, (or £300,000 for Consultancy agreements)	Business justification, review and endorsement by CGRB Approval by the appropriate Executive Leadership Team Member
	£1,500,000 or more (or £300,000 for Consultancy Agreements)	Business justification, review and endorsement by CGRB Approval by the appropriate Cabinet Member in accordance with their Terms of Reference

5.2.3. Officers should ensure review of contract extensions are made well in advance of contract expiry dates for formal recommendation to proceed. This is to allow sufficient time for a compliant re-tender exercise to be successfully completed should the proposed extension be rejected (or if the contractor does not wish for the contract to be extended)

5.2.4. Minor variations which are not substantial and are permitted under the Regulations may not require the same approval process as contract award; however, officers must seek approval from the appropriate CLT member as a minimum

5.2.5. Officers will be responsible for ensuring that all extensions or variations are formally documented and recorded on capitalEsourcing and stored with the Councils Records Management.

### 5.3. Changes in identity of Contractors

5.3.1. Procurement and Commercial Services and Legal Services must be consulted regarding the assignment or novation of contracts to ensure compliance with the PCR 2015.

5.3.2. For contracts valued at £30,000 or more any new legal documentation such as a Deed of Novation or Parent Company Guarantee must be placed in the Councils Records Management with the original contract.

5.3.3. If the contract value falls within the thresholds outlined in [Appendix 2](#), the same approval process must be followed, save for where the contract value is more than £1.5m as the executive Director can approve the novation and send a briefing note to the relevant Cabinet Member.

5.3.4. Where it is established that no assignment or novation has taken place but only a rebranding exercise following a company merger or acquisition, then a copy of the Change of Name Certificate must be provided to Procurement and Commercial Services and recorded against the relevant contract on capitalEsourcing.

## 6. Paying for goods and services

## **6.1. No PO No Pay**

6.1.1. Payments are managed through the [Integrated Business Centre \(IBC\)](#) based in Hampshire. All purchases require a valid purchase order to be raised within the payment system. The Council operates a no purchase order (PO) no pay policy, as such for any invoice to be paid a valid PO must be on the system and appropriately receipted.

6.1.2. In accordance with items 4.3 and 5.1 of this Code and the Finance Procedure Rules, officers must:

- ensure a valid contract is in place before approving purchase orders
- monitor and review the cumulative spend 'run rate' over the life of the contract (or annually where there is an annual spend cap) to ensure that purchase orders placed do not exceed any spend limits or the total contract value.

## **6.2. Guidance for invoicing, POs and setting up Suppliers**

6.2.1. Officers should ensure suppliers are set up correctly and paid promptly by following the guidance set out on [IBC SharePoint](#)

## **6.3. Purchasing Cards**

6.3.1. The Council provides a corporate Purchasing Card service for the procurement and payment of low value goods and services. Purchasing cards are to be used and administered in accordance with the [policy and user guide](#).

## **7. Grants and other sources of external funding**

### **7.1. Council grant funding**

7.1.1. Where the Council issues grant funding to voluntary and community sector or other third-party organisations as a conditional gift with no benefit in return, this will fall outside of the Public Procurement Regulations. However, as grant funding involves the expenditure of public money it is still subject to the requirements of fairness and transparency and demonstration of Best Value.

### **7.2. Arrangements that secure external grants & funding**

7.2.1. The Council may secure grants or external funding from grant awarding authorities such as other Local Authorities, Central Government or the European Commission or other external funding agencies. Officers who secure funding should ensure compliance with the funding arrangements stipulated by these bodies.

7.2.2. Where a competitive tender process must be conducted, as a condition of the grant funding, the thresholds and approval processes set out within this Code must be followed (see [Appendix 2](#)).

7.2.3. Where procurement activity is grant funded (or partially grant funded) and a supplier is named as a condition of that funding, this must be evidenced and

formally documented as an exemption (see section 8). The award of a contract must still be approved in accordance with the total contract value (see [Appendix 2](#))

7.2.4. European Commission funded projects must ensure compliance with the associated standards and regulations.

7.2.5. **Bidders assisted by State Aid.** Officers must ensure that where a bidder is assisted by grants from the Council or other grant awarding authority, such as central government or other Local Authorities, that this does not constitute unlawful State Aid. Moreover, where a bidder is assisted by grants from the Council which does constitute State Aid that the correct procedures are followed. Guidance must be sought from Legal Services.

## **8. Exceptions to the Procurement Code**

### **8.1. Emergency Procedures**

8.1.1. Where there is a clear need to provide urgent goods and/or services in the event of a sudden unforeseen crisis or an immediate risk to health, life, property or environment, compliance with this Code may not be feasible. In such circumstances, officers must notify the Chair of the Commercial Gateway Review Board (CGRB), clearly stating the immediate procurements that are required. Approval from the appropriate decision maker in accordance with the Contract Award Thresholds detailed in Appendix 2, should also be obtained. A retrospective report of any contracts awarded, including full justification supporting the activity undertaken, must be submitted to CGRB at the next available board meeting after the event.

### **8.2. Not using a competitive process – exemptions and waivers**

8.2.1. In exceptional circumstances, there may be instances where conducting a competitive process may not represent Best Value. Exemptions/waivers must be endorsed and recorded by the Procurement and Commercial Service Team. [Appendix 4](#) provides some examples of valid exemptions.

8.2.2. The statutory provisions of the PCR 2015 (EU Procurement Directives) or the CCR 2016 will be applied to all procurements by the Council and cannot legally be waived.

8.2.3. Approvals of exemption/waiver requests are as follows:

Total Contract Value	Approval Required By
Less than £100k	Director of Commercial Partnerships (or deputy) and the appropriate Director.
Less than £1.5m	Director of Commercial Partnerships (or deputy) and the appropriate Executive Leadership team member following a recommendation to approve from CGRB
£1.5m or more (or £300k or more for Consultancy agreements)	Cabinet Member following a recommendation to approve from the appropriate Executive Leadership Team Member, the Director of Commercial Partnerships and CGRB

8.2.4. If the exemption/waiver is approved, the award of contract must still be approved in accordance with the total contract value (see [Appendix 2](#))

8.2.5. All waivers are reported to the Audit & Performance committee as part of the Annual Contracts Review.

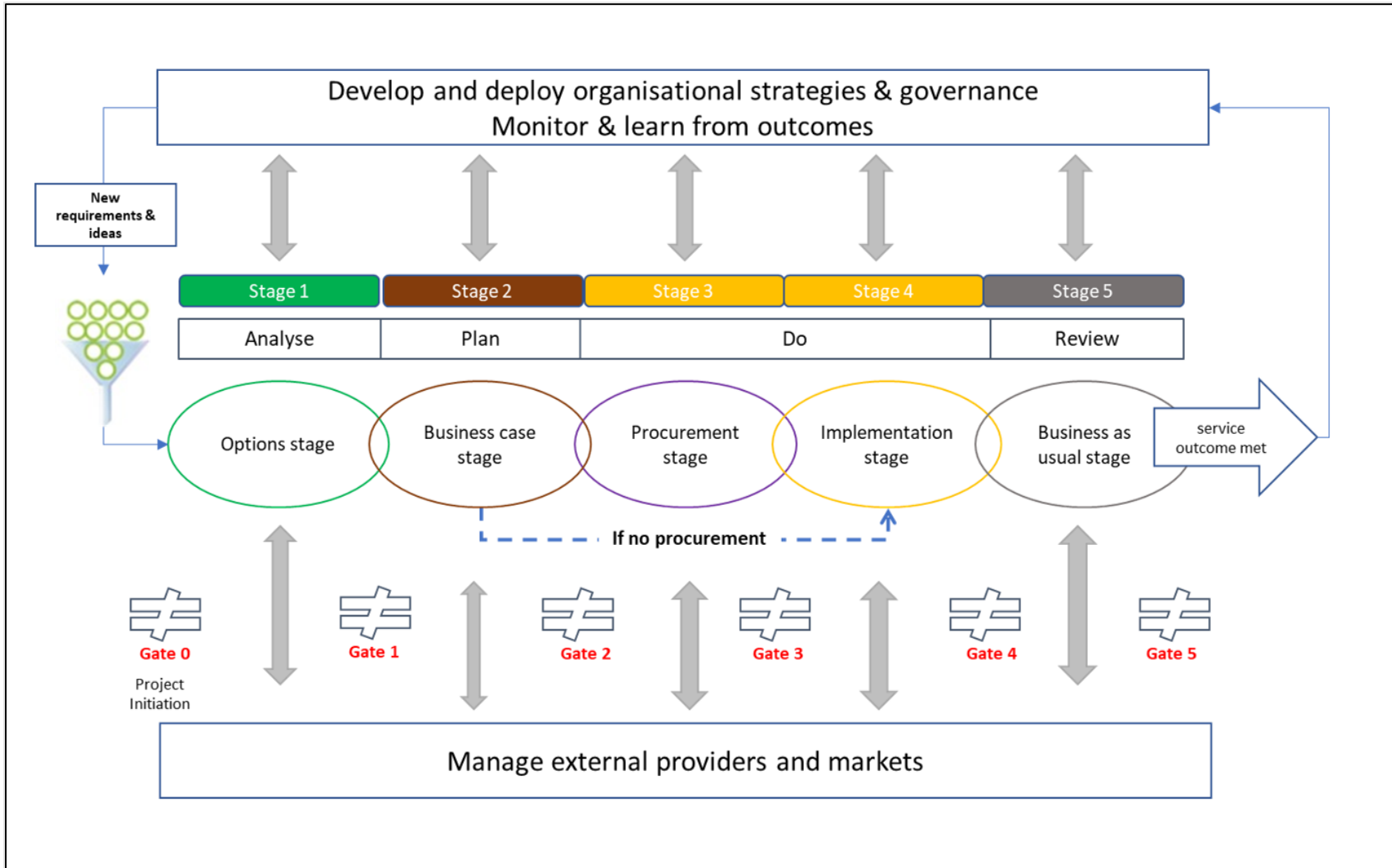
### **8.3. Process for seeking an exception to the Procurement Code**

8.3.1. Procurement and Commercial Services will support officers with an exception of the Procurement Code requests, which will include drafting of the request and submission to the relevant decision maker for approval.

8.3.2. Exceptions (waiver and/or exemption requests) will not be granted retrospectively. Retrospective requests, where a commitment has been made to a provider of works/goods/services without appropriate approval, will be reported to the Executive Leadership Team (ELT) and to the Audit & Performance Committee as part of the Annual Contract Review.

8.3.3. Proceeding with a non-compliant procurement without the appropriate approvals will be the responsibility of the officer involved and the relevant Executive Leadership Team member.

# Appendix 1: Commercial Gateway process



## Appendix 2: Council Procurement Thresholds and Approval processes

Note: Thresholds are exclusive of VAT

Procurement and Commercial Services to lead on all Type A and B procurement activity			
Procurement Type / Contract Value	Key Process Points	Procurement Strategy Approval	Contract Award Approval
<b>TYPE A</b>  Meets or exceeds the relevant PCR / CCR threshold & all high-risk projects	<ul style="list-style-type: none"> <li>• Mandatory use of capitalEsourcing for all procurement activity including both tendering and management of contracts.</li> <li>• Must follow PCR / CCR requirements</li> </ul>	<ul style="list-style-type: none"> <li>• <b>£100,000 or more:</b> The appropriate Executive Leadership Team member following CGRB endorsement to approve</li> </ul>	<ul style="list-style-type: none"> <li>• <b>£1,500,000 or more*:</b> The appropriate Cabinet Member following endorsement to approve from the appropriate Executive Leadership Team member and CGRB</li> <li>• <b>Less than £1,500,000*:</b> The appropriate Executive Leadership Team member following CGRB endorsement to approve</li> </ul> <p><b>*Note:</b> Cabinet Member approval is required for all Consultancy Agreements valued at £300,000 or more in accordance with their Terms of Reference.</p>
<b>TYPE B</b>  £100,000 or more but below the relevant PCR / CCR thresholds	<ul style="list-style-type: none"> <li>• Invite a minimum of 5 suppliers to quote</li> <li>• Mandatory use of capitalEsourcing as per TYPE A</li> <li>• Must follow PCR / CCR rules regarding advertising for all procurements</li> </ul>		

Directorate / service areas to lead on all Type C & D procurement activity		
Procurement Type / Contract Value	Key Process Points	Procurement Strategy Approval and Contract Award Approval
<b>TYPE C</b>  10,000 or more but below £100,000	<ul style="list-style-type: none"> <li>• invite a minimum of 3 suppliers to quote</li> <li>• Mandatory use of capitalEsourcing for all procurements valued at £25,000 or more including both tendering and management of contracts.</li> <li>• Must follow PCR rules regarding advertising for all procurements valued at £25,000 or more</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Less than £100,000:</b> Corporate Leadership Team Member following recommendation to approve following Peer Review</li> </ul>
<b>TYPE D</b>  Below £10,000	<ul style="list-style-type: none"> <li>• Obtain at least one quote</li> <li>• Manual process</li> <li>• No requirements to publish an opportunity listing or contract award notice</li> </ul>	<ul style="list-style-type: none"> <li>• Corporate Leadership Team Member</li> </ul>

It should be noted that compliant use of Frameworks and or Dynamic Purchasing Systems are acceptable. This will include recommendations to proceed with a compliant direct award in place of running a mini competition where it can be demonstrated that this offers Value for Money.



## Appendix 3: Spend Definitions

The PCR 2015 sets out the definitions of works, supply and service contracts. The paragraphs below provide a detailed overview of these public procurement categories.

**Supply/Goods contracts:** The defined term in the PCR 2015 is - *“public supply contracts” means public contracts which have as their object the purchase, lease, rental or hire-purchase, with or without an option to buy, of products, whether or not the contract also includes, as an incidental matter, siting and installation operations.*

Goods or Supply contracts are for the provision of physical products which are purchased or manufactured on request. There may be an element of service involved, such as when items need to be assembled and/or installed. Typical examples are office supplies and equipment, furniture, IT equipment, books, medical supplies and other commodities

**Service contracts:** The defined term in the PCR 2015 is - *“public service contracts” means public contracts which have as their object the provision of services other than those referred to in the definition of “public works contracts”.*

Services are often classified as consulting services and non-consulting services because of the difficulty at times in clearly determining the difference. A distinguishing factor between the two, is the degree of importance in measurable physical output of the requirement.

- Consultancy services/agreements are usually intellectual in nature. At the Council, these are defined as the provision of objective advice relating to strategy, structure, management or operations of an organisations. Such advice will be provided outside of the ‘business-as-usual’ environment when in-house skills are not available and will be time-limited. This may include the identification of options with recommendations, or assistance with (but not necessarily the delivery of) the implementation of solutions. Typical examples are management and/or business consultancy, advice on finance, audit, HR, Health, infrastructure, ICT, to name a few. Architectural services are not classed as the provision of Consultancy but will fall under the definition detailed under non-consulting services.

**Officers should note that Consultancy agreements fall under TYPE A procurements where the threshold for approval is set at £300,000.**

- Non-consulting services usually involve the use of specific methodologies (and at times equipment) to achieve their objectives. Some typical examples are equipment maintenance and repair, operation and maintenance services, utility management, installation and maintenance services, surveys and field investigations, health and social care services and similar.

**Works contracts:** The defined term in the PCR 2015 is - *“public works contracts” means public contracts which have as their object any of the following:*

- a) the execution, or both the design and execution, of works related to one of the activities listed in Schedule 2;*
- b) the execution, or both the design and execution, of a work;*
- c) the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work;*

Works are related to civil works; this includes new construction of structures of all kinds (buildings, highways, bridges, etc), renovations, extensions, and repairs however it excludes certain types of planned maintenance for example decorating. This category can also include, some types of ground condition surveys, water and sanitation, transportation and electrical plant infrastructure.

Supplies and works are usually provided by firms, but consulting and non-consulting services are generally provided by firms as well as individuals.

## Appendix 4: Exceptions to the Procurement Code

Note that the examples listed below are not necessarily exhaustive. Requests must be endorsed by Procurement and Commercial Services and are recorded prior to submission for approval by the relevant decision maker.

Exemptions		
#	Circumstance	Example
E1	The Council has no influence over the supplier selection	<ul style="list-style-type: none"> <li>Where works are to be undertaken by a developer, in accordance with a Section 106 agreement, and the developer appoints a contractor</li> <li>The procurement activity is grant funded (or the Council is match funding) and the supplier is named as a condition of that funding.</li> <li>Where it can be robustly demonstrated that there is only one supplier capable of providing the requirements of the Council e.g.: Where software is being procured which must be compatible with an existing IS system thereby limiting the potential providers to the current software provider <b>ONLY.</b></li> <li>A subscription is to be paid for a particular service e.g. annual subscription to London Councils.</li> <li>Where staff are seconded from other local authorities.</li> <li>individual care packages or education placements where it is considered in the Council's interest or the Council is required to meet obligations under the relevant legislation</li> <li>adult social care service packages managed by the Council on behalf of a client under the personalisation agenda e.g. managed accounts &amp; direct payments/individual budgets.</li> </ul>
E2	The Council are buying goods on behalf of another organisation and those goods will remain on their asset register.	Where purchases are made on behalf of the Metropolitan Police.
E3	Local authorities have a statutory duty to provide housing under homelessness legislation, where the applicant is homeless, is in priority need and has a local connection.	When the supply of suitable affordable accommodation is not available, the Council is required to procure Temporary Accommodation (TA) to provide housing until affordable housing is available.

Waivers
<p>Officers are reminded that the statutory provisions of the Public Contracts Regulations 2015 (EU Procurement Directives) will be applied to all procurements by the Council and <b>cannot legally be waived</b>. Waiver Requests may cover but are not limited to:</p> <ul style="list-style-type: none"> <li>Request to proceed with a Direct Award without running a competitive process</li> <li>Request to extend a contract for a specific period, where no further extension options exist</li> </ul> <p>It should be noted that compliant direct awards from a Framework or DPS will not require a waiver where it can be demonstrated that this offers value for money</p>

## Appendix 5: Transparency Code Obligations

Extract from Local Government Transparency Code 2015, Annex A: Table summarising all information to be published

Information title	Information which must be published	Information recommended for publication
<p><b>Expenditure exceeding £500</b></p>	<p>Quarterly publication</p> <p>Publish details of each individual item of expenditure that exceeds £500, including items of expenditure, consistent with Local Government Association guidance, such as:</p> <ul style="list-style-type: none"> <li>• individual invoices</li> <li>• grant payments</li> <li>• expense payments</li> <li>• payments for goods and services</li> <li>• grants</li> <li>• grant in aid</li> <li>• rent</li> <li>• credit notes over £500</li> <li>• transactions with other public bodies.</li> </ul> <p>For each individual item of expenditure the following information must be published:</p> <ul style="list-style-type: none"> <li>• date the expenditure was incurred</li> <li>• local authority department which incurred the expenditure</li> <li>• beneficiary</li> <li>• summary of the purpose of the expenditure</li> <li>• amount</li> <li>• Value Added Tax that cannot be recovered</li> <li>• merchant category (e.g. computers, software etc).</li> </ul>	<ul style="list-style-type: none"> <li>• Publish information on a monthly instead of quarterly basis, or ideally, as soon as it becomes available and therefore known to the authority (commonly known as 'real-time' publication).</li> <li>• Publish details of all transactions that exceed £250 instead of £500. For each transaction the details that should be published remain as set out in paragraph 29.</li> <li>• publish the total amount spent on remuneration over the period being reported on.</li> <li>• classify purpose of expenditure using the Chartered Institute of Public Finance and Accountancy Service Reporting Code of Practice to enable comparability</li> </ul>
<p><b>Government Procurement Card transactions</b></p>	<p>Quarterly publication</p> <p>Publish details of every transaction on a Government Procurement Card. For each transaction, the following details must be published:</p> <ul style="list-style-type: none"> <li>• date of the transaction</li> <li>• local authority department which incurred the expenditure</li> <li>• beneficiary</li> <li>• amount</li> <li>• Value Added Tax that cannot be recovered</li> <li>• summary of the purpose of the expenditure</li> <li>• merchant category (e.g. computers, software etc).</li> </ul>	<ul style="list-style-type: none"> <li>• Publish all transactions on all corporate credit cards, charge cards and procurements, including those that are not a Government Procurement Card. For each transaction the details that should be published remain as set out in paragraph 30.</li> </ul>

Information title	Information which must be published	Information recommended for publication
<b>Procurement information</b>	<p>Quarterly publication Publish details of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000. For each invitation, the following details must be published:</p> <ul style="list-style-type: none"> <li>• reference number</li> <li>• title</li> <li>• description of the goods and/or services sought</li> <li>• start, end and review dates</li> <li>• local authority department responsible.</li> </ul> <p>Quarterly publication Publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. For each contract, the following details must be published:</p> <ul style="list-style-type: none"> <li>• reference number</li> <li>• title of agreement</li> <li>• local authority department responsible</li> <li>• description of the goods and/or services being provided</li> <li>• supplier name and details</li> <li>• sum to be paid over the length of the contract or the estimated annual spending or budget for the contract</li> <li>• Value Added Tax that cannot be recovered</li> <li>• start, end and review dates</li> <li>• whether or not the contract was the result of an invitation to quote or a published invitation to tender</li> <li>• whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number.</li> </ul>	<p>Place on Contracts Finder, as well as any other local portal, every invitation to tender or invitation to quote for contracts to provide goods and/or services with a value that exceeds £10,000. Publish:</p> <ul style="list-style-type: none"> <li>• information on a monthly instead of quarterly basis, or ideally, as soon as it is generated and therefore becomes available (commonly known as ‘real-time’ publication)</li> <li>• every invitation to tender for contracts to provide goods and/or services with a value that exceeds £500 instead of £5,000</li> <li>• details of invitations to quote where there has not been a formal invitation to tender</li> <li>• all contracts in their entirety where the value of the contract exceeds £5,000</li> <li>• company registration number at Companies House</li> <li>• details of invitations to tender or invitations to quote that are likely to be issued in the next twelve months</li> <li>• details of the geographical (e.g. by ward) coverage of contracts entered into by the local authority</li> <li>• details of performance against contractual key performance indicators</li> <li>• information disaggregated by voluntary and community sector category (e.g. whether it is registered with Companies House, charity or charitable incorporated organisation, community interest company, industrial and provident society, housing association, etc).</li> </ul>
<b>Grants to voluntary, community</b>	<p>Annual publication Publish details of all grants to voluntary, community and social enterprise organisations. This can be achieved by either:</p>	<ul style="list-style-type: none"> <li>• Publish information on a monthly instead of annual basis where payments are made more frequently than a single annual</li> </ul>

Information title	Information which must be published	Information recommended for publication
<b>and social enterprise organisations</b>	<ul style="list-style-type: none"> <li>• tagging and hence specifically identifying transactions which relate to voluntary, community and social enterprise organisations within published data on expenditure over £500 or published procurement information, or</li> <li>• For each identified grant, the following information must be published as a minimum: <ul style="list-style-type: none"> <li>• date the grant was awarded</li> <li>• time period for which the grant has been given</li> <li>• local authority department which awarded the grant</li> <li>• beneficiary</li> <li>• beneficiary's registration number</li> <li>• summary</li> </ul> </li> </ul>	<p>payment, or ideally, as soon as the data becomes available and therefore known to the authority (commonly known as 'real-time' publication).</p> <ul style="list-style-type: none"> <li>• information disaggregated by voluntary and community sector category (e.g. whether it is registered with Companies House, charity or charitable incorporated organisation, community interest company, industrial and provident society, housing association etc).</li> </ul>

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## WESTMINSTER CITY COUNCIL – FINANCIAL REGULATIONS

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### **Appendix A Schedule of financial authority to officers**

Within these Regulations **Executive Director of Finance & Resources** means:

- The officer with the statutory responsibility for the proper administration of the Council's financial affairs in accordance with S151 of the Local Government Act 1972, i.e. Chief Finance Officer;
- Or those officers authorised to act on his/her behalf.

### **Part A: Status of Financial Regulations**

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#### **1. Purpose**

- 1.1 These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs.

#### **2. Status**

- 2.1 The Local Government Act 1972 (Section 151) makes the Chief Finance Officer (Executive Director of Finance & Resources) responsible for the proper administration of the Council's financial affairs. These Regulations are issued pursuant to these responsibilities.

#### **3. Scope**

- 3.1 The regulations set out the Council's requirements in respect of:
- financial management roles and responsibilities
  - financial planning and budgeting
  - financial monitoring and control
  - internal control and audit
  - financial systems and procedures
  - external arrangements

- 3.2 The regulations apply to the control of both the General Fund finances (except for schools) and the Housing Revenue Account.
- 3.3 Appendix A to the Regulations comprises the 'Schedule of Financial Authority to Officers' which sets out the approved financial limits within which officers may conduct the Council's business.
- 3.4 The Regulations are supported by a set of mandatory Financial Procedures which provide more detailed direction on the arrangements to be complied with.

#### **4. Compliance**

- 4.1 These Regulations, and the Financial Procedures, apply to every member and officer of the Council and to anyone acting on its behalf. Failure to comply may constitute misconduct and lead to formal disciplinary action.
- 4.2 All Council members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, and achieves value for money. In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.

#### **5. Maintaining the regulations**

- 5.1 The Executive Director of Finance & Resources is responsible for:
  - a. Maintaining and updating these Regulations and the Schedule of Financial Authority to Officers.
  - b. Ensuring that any revisions affecting the powers of Members are approved by the Council on the recommendation of the Cabinet Member for Finance, Property and Regeneration.
  - c. Reviewing and reissuing the Financial Procedures as necessary to support the effective operation of these Regulations.

### ***Part B: Financial Management Roles and Responsibilities***

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#### **1. Principles**

- 1.1 A transparent framework of financial management responsibilities and decision making is essential to the effective management of the Council's financial affairs.
- 1.2 All members and officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public monies.



## **2. Members**

2.1 Members' responsibilities for the overall management of the Council's financial affairs are exercised through:

- a. **Full Council**, which is responsible for approving the Council's overall policy framework and the budget within which the executive operates, setting Prudential Indicators for capital finance and treasury management, setting limits for budget virements, and approving the Council's treasury management and investment strategies.
- b. **The Cabinet**, which is responsible for proposing the policy framework and budget to the Council and for discharging executive functions in accordance with it. Executive decisions can be delegated to a committee of the Cabinet, or by the Leader to an individual Cabinet Member or an officer.
- c. **Audit and Performance Committee**, which is responsible for maintaining a continuous review of the Council's regulatory framework, approving the Annual Statement of Accounts for publication, and oversight of audit and anti-fraud activity.
- d. **Policy and Scrutiny Committees**, which oversee the budget process including its implementation.
- e. **Pension Fund Committee**, which is responsible for the management of the Council's Pension Fund.

## **3. The Executive Director of Finance & Resources**

3.1 The Executive Director of Finance & Resources has statutory and delegated duties in relation to the financial administration and stewardship of the Council. The statutory responsibilities cannot be overridden and arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2015
- The Local Government Pension Scheme Regulations 2013
- The Local Government Pension Scheme Regulations (Management and Investment of Funds) 2016
- Public Service Pensions Act 2013
- The Local Authorities Goods and Services Acts 1970
- The Local Government Acts 2000 and 2003
- The Localism Act 2011

3.2 Responsibilities of the Executive Director of Finance & Resources include:

- a. The proper administration of the Council's financial affairs including all arrangements concerning financial planning, financial control, accounting, taxation, income, debt management, insurance, investments, banking,

bonds, loans, leasing, borrowing, trust and pension funds, and the payment of creditors, salaries, wages and pensions.

- b. Determining the contents of Financial Procedures and ensuring compliance with these and Financial Regulations.
- c. Preparing the annual Revenue Budget, and reporting to the Council on the robustness of the estimates and the adequacy of reserves.
- d. Preparing the annual Capital Programme, ensuring effective forward planning and sound financial management in its compilation.
- e. Ensuring that accurate and timely financial information is available to enable effective budget monitoring and reporting, and taking action if overspends or shortfalls in income emerge.
- f. Reporting to full Council if it is likely that any proposed action or decision will lead to unbudgeted or unlawful expenditure or activity.
- g. Advising on the systems of internal control necessary for sound financial management and decision making, and to ensure that public funds are properly safeguarded and used economically, efficiently, and effectively.
- h. Maintaining an adequate and effective internal audit function and an effective anti-fraud and corruption strategy.
- i. Preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.
- j. Determining the accounting procedures and records for the Council and ensuring that they are applied consistently.
- k. Preparing the Council's annual statement of accounts and governance statement in accordance with all applicable codes of practice on local authority accounting.
- l. Preparing and implementing an effective treasury management strategy, and effecting all investments and borrowings within the limits imposed by the Council.
- m. Advising on, monitoring and reporting on performance in relation to Prudential Indicators set by the Council for capital expenditure, external debt and treasury management.
- n. Management of pension fund investments and preparing and submitting a triennial Funding Strategy Statement and Investment Strategy Statement to the Pension Fund Committee for approval.
- o. Ensuring that effective asset management arrangements are in place.
- p. Advising on the risks and financial implications associated with joint working, external funding and trading opportunities.

3.3 The Executive Director of Finance & Resources may allocate his/her day-to-day responsibilities to an appropriate representative in accordance with the Scheme of Delegated Authority to Officers and the Schedule of Financial Authority to Officers.

#### **4. Budget Managers**

4.1 Whilst the Executive Director of Finance & Resources has overall responsibility for the finances of the Council, budget managers are responsible for the day-to-day management of their respective Unit's finances. Their responsibilities in relation to financial management include:

- a. Promoting and ensuring compliance with these Regulations and associated Financial Procedures, and taking corrective action in the event of any non-compliance.
- b. Preparing annual Revenue Budget estimates and Capital Programme estimates in accordance with the guidance issued by Cabinet and the Executive Director of Finance & Resources.
- c. Ensuring that the financial implications of all proposals are properly reflected within all decision making reports and that these have been agreed with the Executive Director of Finance & Resources or his/her nominated representative.
- d. Managing service delivery and containing expenditure within the agreed revenue and capital budgets.
- e. Maintaining sound systems of internal control and implementing agreed internal and external audit recommendations.
- f. Complying with the Council's anti-fraud and corruption strategy and reporting suspected fraud and financial irregularities to internal audit for investigation.
- g. Complying with the Council's risk management strategy and notifying the Executive Director of Finance & Resources immediately of significant risks to the Council's financial position.
- h. Ensuring that all financial transactions are recorded through the main accounting system.
- i. Ensuring that the controls framework of the Council's ERP system is followed at all times and necessary steps are taken to ensure their unit complies with this framework
- j. Assisting cash flow through timely billing of income due, monitoring income received and taking appropriate action in the event of non-payment.
- k. Assisting cash flow through minimising advance payments wherever possible.
- l. Ensuring that all expenditure incurred complies with the requirements of the procurement code and has the necessary budgetary approval.
- m. Controlling resources and containing staff numbers within approved establishment and budget levels and ensuring that all employee appointments and payments are properly authorised in compliance with the Council's policies.
- n. Ensuring the proper security and safe custody of all assets under their control.
- o. Ensuring that the risks and financial implications associated with joint working, external funding and trading opportunities are properly evaluated,

and that no such arrangements are entered into without the necessary approvals.

- p. Ensuring that financial authorities are operated in accordance with the limits contained within the Schedule of Financial Authority to Officers, and that a written record of authorised officers is maintained.

## **5. All Officers**

- 5.1 In addition to the specific responsibilities set out above the Council expects all officers to:
  - a. Act in good faith, impartially and in accordance with their positions of trust.
  - b. Exercise due care in relation to all resources, assets, income and expenditure within their care or control.
  - c. Ensure that proper records and documentation are maintained of the Council's assets and financial transactions.
  - d. Comply with these Regulations, the associated Financial Procedures and any additional guidance issued to ensure the effective control of the Council's resources.
  - e. Co-operate in audits of the Council's financial systems.
  - f. Report any suspected financial irregularities for investigation.
  - g. Ensure they comply with the Council's ERP system control framework and policies.

## **Part C: Financial Planning and Budgeting**

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### **1. Principles**

- 1.1 The purpose of financial planning is to set out and communicate the Council's objectives, resource allocations and related performance targets, and to provide an agreed basis for subsequent management control, accountability and reporting.
- 1.2 Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for the Council to budget for a deficit.
- 1.3 The Council's budget sets agreed parameters around the annual activities and functions of Units and their services and is constructed within the context of a medium term financial plan. It reflects the priorities of the Council.
- 1.4 The Capital Programme sets out the resource allocations to be made to capital schemes that have the approval of Council. Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the organisation, such as land, buildings, major items of plant, equipment and vehicles.

- 1.5 To enable members to make informed decisions, all Cabinet and Committee reports must incorporate a separate section on 'financial implications', which will be prepared by the Executive Director of Finance & Resource's Department. Reports must show the costs or savings of proposals, together with any approved budget provision, future commitments, potential risks, tax implications, and any other financial consequences which may arise from the options and recommendations.

## **2. Revenue Budget**

- 2.1 The Executive Director of Finance & Resources is responsible for:
- a. Ensuring that an annual Revenue Budget and Council Tax Report is prepared in the context of a medium term financial plan for consideration by Cabinet and approval by Council.
  - b. Maintaining a financial planning and resource allocation process that properly reflects the Council's policy framework and strategic objectives.
  - c. Advising the Cabinet on the format of the budget and its responsibility for issuing guidance on budget preparation taking due account of:
    - legal requirements
    - medium-term planning prospects
    - the corporate strategy and Council priorities
    - available resources
    - spending pressures
    - government initiatives and public policy requirements
    - internal policy directives
  - d. Advising the Council on the budget proposals in accordance with his/her responsibilities under S151 of the Local Government Act 1972.
  - e. Advising the Cabinet and Council on a prudent level of reserves for budget purposes, and ensuring any appropriate contingency provisions are maintained.
  - f. Considering and approving or rejecting requests for the creation of earmarked reserves.
  - g. Approving or rejecting transfers to or from reserves, or the re-designation of existing reserves.
  - h. Undertaking the statutory consultation with NNDR payers.
  - i. Issuing detailed procedures on the preparation of Revenue Budget estimates.
- 2.2 Budget managers are responsible for:
- a. Preparing annual Revenue Budget estimates in accordance with the guidance issued by Cabinet and the detailed procedures issued by the Executive Director of Finance & Resources, ensuring that these reflect agreed priorities, and advising Cabinet Members on service implications.

- b. Establishing detailed budgets for each service area in advance of the financial year and requiring such budgets to be managed by responsible named budget managers.
- c. Integrating financial and budget plans with service planning.
- d. Ensuring that any approved withdrawals from reserves are applied for their intended purposes.

### **3. Capital Programme**

- 3.1 No expenditure may be incurred on a capital project unless it has been approved by the Cabinet Member, other than in accordance with any exceptions set out in the Schedule of Financial Authority to Officers. Any slippage between years must be reported at the monthly Capital Review Group meeting and approved by the relevant Cabinet Member. Any forecasted overspends must be contained within the overall Capital Programme and reported to the Capital Review Group. Variations to the approved budgets for capital schemes must be approved by the Cabinet Member in accordance with the limits set out in the Schedule of Financial Authority to Officers.
- 3.2 The Capital Review Group is chaired by the Cabinet Member for Finance, Property and Regeneration supported by the Executive Director of Finance & Resources. The Executive Director of Finance & Resources is responsible for producing the agenda for the Capital Review Group meeting and co-ordinating attendees. The meeting is attended by relevant Cabinet members and Executive Directors or their representative where projects fall within their portfolio. This group meets monthly and is responsible for:
- a. The strategic development of the Council's capital programme and capital strategy in accordance with the Council's Objectives as set out in City for All.
  - b. To consider any proposal for the use of capital against Council's priorities.
  - c. To review potential risk and Value for Money issues on any proposal for the use of capital.
  - d. To agree any programme of capital spend within the confines of Council agreed financing.
  - e. To provide a forum for establishing and providing robust challenge and debate around the capital programme.
  - f. To monitor the performance of projects and programmes within the Council's Capital Programme.
  - g. To set out a programme of annual capital receipts and to monitor progress in achieving those receipts.
  - h. To ensure that investments in projects are backed up with a rigorous business case that is updated and developed at key stages over the project life.

- 3.2 All Development (as per the General Fund Capital Programme) and regeneration (as per the HRA business plan) projects over £10m will have to produce the following three business cases:
- a. Strategic Outline Case
  - b. Outline Business Case
  - c. Full Business Case
- 3.3 Projects under £10m will require a Business Justification Case only. However, this will be dependent on the other criteria and factors. The list below is not exhaustive and whether a project can go through a one stage process has to be reviewed on a case by case basis and agreed by senior officers, members and the Project Management Office (PMO). The factors include:
- a. Level of Resident engagement required
  - b. Political sensitivities
  - c. Strategic aims of the project
  - d. Historical context of the project
- 3.4 As part of the capital budget setting process, all schemes in the capital programme have to have a Capital Programme Submission Request Form (CPSR). The purpose of the CPSR forms are to justify individual schemes requiring a capital budget and ensuring that they are in line with the Council's aims and objectives. The CPSR forms are based on the PMO's prioritisation framework:
- a. Strategic fit
  - b. Financial
  - c. Legislative and Compliance
  - d. Indirect Need
  - c. Risks

Each section is scored by the budget manager and scores are then moderated by a panel which is led by the PMO. The Prioritisation Panel will make the final decision on which projects should be included in the capital programme.

- 3.3 The Executive Director of Finance & Resources is responsible for:
- a. Ensuring that a five-year rolling Capital Programme is prepared on an annual basis for consideration by the Capital Review Group, and approved by Cabinet and Council. This is supported by a further indicative ten-year plan.
  - b. Issuing strategic guidance on budget preparation, and issuing detailed guidelines which take account of legal, regulatory and code of practice requirements, medium-term planning prospects, affordability and whole life costing.

- c. Ensuring that the revenue implications of the programme are contained within the Revenue Budget and medium term financial plan.
- d. Ensuring that all schemes relying on the use of Prudential borrowing powers are properly appraised and provide value for money.
- e. Reporting to Cabinet on the overall position and the availability of resources to support the Capital Programme.
- f. Issuing procedures on the preparation of capital budget estimates.
- g. Ensuring that sources of funding (general fund, capital grants, self-financing etc) are identified for the entire programme.
- h. Ensuring that any schemes requiring in year approval (outside of the annual capital programme) are reviewed by the Capital Review Group and approved by the relevant cabinet member – in line with the Scheme of Financial Authority.
- i. Ensuring the Capital Programme includes a contingency for in year approval of schemes and the Capital Review Group approves the use of any contingency. This is so to ensure that the overall affordability of the programme is maintained, in line with the scheme of delegation.
- j. Maintaining a record of the current capital budget and expenditure on the Council's financial systems, and ensuring compliance with financial reporting standards.
- k. Reporting to Cabinet and the Capital Review Group on the performance against the Capital Programme and budget as well as reporting to the Audit and Performance Committee and Policy and Scrutiny Committee as required.
- l. Ensuring that governance arrangements are in place via the Capital Review Group meeting to review proposed changes to the Capital Programme for approval by the Cabinet Member.
- m. Ensuring the Council's annual disposals programme is approved by Cabinet.
- n. Ensuring the Capital Review Group is updated on the progress of the disposals programme.

### 3.3 Budget managers are responsible for:

- a. Complying with the guidance issued by the Executive Director of Finance & Resources regarding preparation of the Capital Programme.
- b. Ensuring all General Fund capital schemes and schemes included in the Housing Revenue Account asset management are properly appraised with rigorous business cases documented in line with HM Treasury Green Book guidance and in line with the requirements set out in the capital strategy. In addition projects should be supported by project plans, funding strategies, risk register and benefit realisation plans as appropriate.
- c. Undertaking robust financial management of schemes on a day to day basis and ensuring the scheme constitutes value for money.
- d. Undertaking an annual review of their schemes within the Capital Programme and consequential revenue expenditure, for inclusion in the medium term financial plan.



- e. With the exception of approved spend within the Housing Revenue Account, ensuring that no expenditure is incurred on a capital project prior to its agreed inclusion within the Capital Programme and until a financial report has been approved by the Cabinet Member in accordance with the limits set out in the Scheme of Delegated Authority to Officers.
- f. Monitoring and reporting on a monthly basis on capital expenditure and receipts against approved capital budgets, on project slippage and variations, on additions/deletions, and on any changes in projected expenditure, for the Capital Review Group, or for the Cabinet Member in the case of the Housing Revenue Account.
- g. Ensuring that all allocated spend is authorised via in accordance with the Schedule of Financial Authority to Officers
- h. Reporting to the Cabinet if proposed sources of funding are not secured.
- i. Ensuring that adequate records and audit trails are maintained in respect of all capital contracts.
- j. Complying with the requirements of Capital Review Group for business case sign off, progress updates and providing specific information in relation to a scheme when requested. As only Cabinet Member and Cabinet reports can be approved formally, all business cases must be submitted with a cover report and CRG should recommend approval to members who can sign off the report.
- k. Submitting contingency draw down reports. All projects will include a capital contingency of 20%. The Executive Director of Finance & Resources will hold 15% of this centrally. Should centrally held contingency need to be drawn down, a Cabinet Member or Cabinet Report will need to be submitted and reviewed by CRG.

3.6 The council's Project Management Office will have the responsibility of managing the progress individual projects and ensuring the quality assurance of reports and business cases. Further information can be found in the programme management handbook.

#### **4. 4. *Financial Implications of Decisions***

- 4.1 The Executive Director of Finance & Resources is responsible for:
- a. Issuing guidance in relation to the presentation of financial implications within the Council's decision making processes.
  - b. Ensuring the adequacy of the financial implications information presented within individual decision making reports and appropriate sign-off.
- 4.2 Managers are responsible for:
- a. Ensuring that all decision making reports properly set out the financial implications of the proposed actions, through the provision of adequate information to Finance to allow this section to be prepared.

- b. Ensuring they act in accordance with guidance issued by the Executive Director of Finance & Resources.
- c. Arranging for all financial implications to be validated and formally signed off by the Executive Director of Finance & Resources, or his/her nominated representative, prior to their progression through the approval process.
- d. Consulting with relevant parties where there may be financial implications for other Cabinet Members, Committees or Units

## ***Part D: Financial Monitoring and Control***

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### **1. Principles**

- 1.1 To ensure the Council does not exceed its overall budget, each service area is required to manage its own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions. The Council's approval of the revenue estimates constitutes authority to incur expenditure, subject to compliance with the approved policies and regulations of the Council and any other limitation that may be imposed.
- 1.2 Any forecasted revenue overspends or income shortfalls should be mitigated through a compensating underspend or overachievement of income elsewhere. Any underspend cannot be carried forward from one year to the next without the approval of the Executive Director of Finance & Resources, and should generally be restricted to specific items of a 'one off' nature where monies will be spent for an identified purpose in the following financial year.
- 1.3 The term virement refers to transfers of budgets between or within cost centres. Virements may only be used in the very specific circumstances set out in the Regulations and the Schedule of Financial Authority to Officers.

### **2. Control of Revenue Budgets**

- 2.1 The Executive Director of Finance & Resources is responsible for:
  - a. Maintaining a robust framework of budget management and control that ensures that:
    - Budget management is exercised within annual cash limits and the medium term financial plan.
    - Revenue expenditure is recorded on the Council's financial systems in accordance with legal, regulatory and code of practice requirements.
    - Accurate and timely information is available to managers and budget holders that enables budgets to be monitored and controlled effectively.
    - All officers responsible for committing expenditure comply with these Regulations.
    - Each cost centre is allocated to a named budget manager determined by the relevant service manager.

- Significant variances from budget are investigated and reported by budget managers on a regular basis.
- b. Monitoring and controlling income and expenditure against budget allocations at a Council-wide level.
- c. Reporting regularly to the Cabinet, Audit and Performance Committee and Policy and Scrutiny Committee on performance against budget, delivery of savings programmes and available reserves.

2.2 Budget managers are responsible for:

- a. Ensuring that effective budgetary control arrangements exist and are observed within their respective Units in compliance with these Regulations.
- b. Ensuring spending remains within the relevant cash limits by controlling income and expenditure, monitoring performance and taking corrective action where variations from budget are forecast.
- c. Ensuring that expenditure is coded correctly and committed only against approved budget lines.
- d. Forecasting accurately on a monthly basis throughout the financial year; regularly reporting performance, variances, and forecasts to the Executive Director of Finance & Resources, Cabinet, and as required to the Policy and Scrutiny Committee, and Audit and Performance Committee.
- e. Ensuring any risks or issues relating to over or underspends within their areas are escalated to Finance on a timely basis.

**3. Virements**

3.1 The Executive Director of Finance & Resources is responsible for:

- a. Controlling and administering the virement mechanism in accordance with guidance and limits set by Council. As a general rule, revenue virement is only permissible in the following circumstances:
  - to correct any errors made in the initial loading of the budget onto the main accounting system
  - to reflect a structural reorganisation
  - to distribute centrally held budgets, e.g. savings targets and inflation provisions to reflect major changes in policy, subject to appropriate approval
  - to reflect receipt of additional grant or other funding
  - to reflect technical adjustments at the discretion of the Executive Director of Finance & Resources
  - to reflect any changes in corporate priorities
  - to reflect adjustments required in the use of earmarked reserves
- b. Recording approved virements in the Council's financial systems and reflecting the impact of these in regular monitoring reports to Cabinet and the Audit and Performance Committee.

- 3.2 Budget Managers are responsible for:
- a. Ensuring all proposed virements comply with the limits and approval requirements set out in the Schedule of Financial Authority to Officers.
  - b. Notifying all proposed virements in writing to the Executive Director of Finance & Resources or his/her representative.
  - c. Ensuring that virements are correctly identified as either permanent or temporary (in year) adjustments.

## ***Part E: Internal Control and Audit***

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### **1. Principles**

- 1.1 Sound systems of internal control are essential to the proper economic, efficient and effective use of resources, the achievement of objectives, and the safeguarding of public funds.
- 1.2 Legislation requires that the Council provides for both internal and external audit. External audit provides an independent assessment of the Council's financial statements and the adequacy of its arrangements for securing value for money. Internal audit evaluates and reports on the adequacy of the Council's internal control systems in securing the proper, economic, efficient and effective use of resources.
- 1.3 There is a basic expectation that members and all officers will act with integrity and with due regard to matters of probity and propriety, and comply with all relevant rules, regulations, procedures and codes of conduct, including those in relation to receipt of gifts and hospitality and declaration of conflicts of interest.
- 1.4 The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by members, officers, customers of its services, third party organisations contracting with it, or other agencies or individuals with which it has any business dealings.
- 1.5 Risk management is an integral part of effective management and planning. It is concerned with identifying and managing key obstacles to the achievement of objectives.

### **2. Internal Control**

- 2.1 The Executive Director of Finance & Resources is responsible for:
- a. Advising on effective systems of internal control to ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with statutory and other authorities that govern their use.
  - b. Conducting an annual review of the effectiveness of the system of internal control and publishing the results of this within the Council's Annual Governance Statement.

- 2.2 Budget Managers are responsible for:
- a. Complying with the controls set down in these Regulations and the Financial Procedures.
  - b. Taking corrective action in respect of any non-compliance by staff with relevant rules, regulations, procedures and codes of conduct.
  - c. Implementing effective systems of internal control including adequate separation of duties, clear authorisation levels, and appropriate arrangements for supervision and performance monitoring.
  - d. Planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their objectives, standards and targets.

### **3. *Internal and External Audit***

- 3.1 The Executive Director of Finance & Resources is responsible for:
- a. Maintaining an adequate and effective internal audit service in accordance with the Accounts and Audit Regulations.
  - b. Ensuring that the statutory requirements for external audit are complied with and that the external auditor is able to effectively scrutinise the Council's records.
  - c. Ensuring that audit plans and results are reported to the Audit and Performance Committee.
- 3.2 Budget Managers are responsible for:
- a. Ensuring that the appointed auditors have access to all documents and records for the purposes of the audit and are afforded all facilities, cooperation and explanation deemed necessary.
  - b. Cooperating in the production of annual audit plans by highlighting any areas of risk that may benefit from audit review.
  - c. Implementing audit recommendations within agreed timescales.

### **4. *Preventing Fraud and Corruption***

- 4.1 The Executive Director of Finance & Resources is responsible for:
- a. Developing and maintaining an anti-fraud and corruption strategy that stipulates the arrangements to be followed for preventing, detecting, reporting and investigating suspected fraud and irregularity.
  - b. Advising on the controls required for fraud prevention and detection.
  - c. Appointing a Money Laundering Reporting Officer and Deputy to ensure that systems are in place to counter opportunities for money laundering and that appropriate reports are made.
- 4.2 Budget Managers are responsible for:
- a. Complying with the Council's anti-fraud and corruption strategy.
  - b. Ensuring that there are sound systems of internal control within their Units for

fraud prevention and detection.

- c. Ensuring they follow all controls policies and regulations to minimise fraud and taking all necessary action with their staff if fraud is suspected.
- d. Reporting cases of suspected fraud or irregularity to internal audit for investigation, and complying with the Council's whistleblowing policy.
- e. Implementing audit recommendations within agreed timescales.
- f. Reporting any vulnerabilities or suspicions of money laundering in accordance with guidance issued by the Money Laundering Reporting Officer.

## **5. Risk Management**

- 5.1 The Executive Director of Finance & Resources is responsible for preparing the Council's risk management strategy and advising on the management of strategic, financial and operational risks.
- 5.2 Budget Managers are responsible for:
  - a. Implementing the Council's risk management strategy.
  - b. Integrating risk management within business planning and performance management arrangements.
  - c. Mitigating, monitoring and reporting on risks.
  - d. Maintaining and testing business continuity plans.

## **Part F: Financial Systems and Procedures**

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### **1. Principles**

- 1.1 Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. This includes:
  - **Accounting:** The main accounting system provides the prime source of financial data for management accounts, statutory accounts and government returns. It is essential that this system complies with legislation and proper accounting practice and that all information is recorded accurately, completely and in a timely manner, and that any errors are detected promptly and rectified.
  - **Income:** Effective systems are necessary to ensure that all income due is collected, receipted, recorded and banked properly. Where possible income should be collected in advance to improve cash flow and avoid costs of debt collection. Debts should only be written off once all reasonable avenues have been exhausted or where it would prove uneconomical to pursue.
  - **Expenditure:** Expenditure may only be incurred where budgetary provision is available and must comply with the Council's procurement rules and approved payment processes. Purchase orders must be raised to ensure that the expenditure is recorded as a commitment in the Council's main accounting system.
  - **Banking:** All transactions through the Council's bank accounts must be

properly processed, recorded and reconciled.

- **Treasury management:** Proper processes must be maintained for the investment of cash balances and for borrowing to fund the Capital Programme, ensuring compliance with the authorised annual Treasury Management Strategy Statement.
- **Taxation:** Effective systems must be in place to ensure that all tax liabilities and obligations are properly reported and accounted for and that losses, fines and penalties avoided.
- **Asset management:** The Council's assets must be properly recorded, safeguarded from loss/harm and utilised effectively, and any disposals undertaken in a controlled manner.
- **Insurance:** Appropriate insurance cover is necessary to protect the Council from financial claims arising from unforeseen events such as damage to property or injury to employees or to the public.
- **Recharges and internal trading accounts:** The Council is required to allocate all of its back-office costs to service areas in compliance with accounting codes of practice

## **2. Principles**

2.1 The Executive Director of Finance & Resources is responsible for:

- a. Determining the Council's main accounting system for the preparation of the Council's accounts and for monitoring all income and expenditure.
- b. Determining any financial systems which may sit outside of the main accounting system, and ensuring that these are sound and properly integrated and interfaced.
- c. Issuing guidance on the use and maintenance of the main accounting system and related financial systems, and ensuring that supporting records and documents are retained.
- d. Ensuring that regular balance sheet and holding account reconciliations are undertaken.
- e. Preparing the Council's consolidated accounts, balance sheet and governance statement for audit and publication, and issuing guidance (including a detailed timetable and plan) to ensure achievement of statutory deadline.

2.2 Budget Managers are responsible for:

- a. Ensuring that the main accounting system is used to accurately record financial transactions in accordance with guidance issued by the Executive Director of Finance & Resources.
- b. Ensuring an adequate audit trail of financial information and compliance with the Council's policies in respect of the retention of documents.
- c. Ensuring that the implementation of any Unit financial system has the express approval of the Executive Director of Finance & Resources, and is adequately documented, tested and interfaced with the main accounting system.

- d. Complying with the timetables required by the Executive Director of Finance & Resources to enable the production of consolidated accounts, budgets and statutory information.

### **3. *Income***

3.1 The Executive Director of Finance & Resources is responsible for:

- a. Administering all invoicing, credit notes, income collection and debt recovery or, where local arrangements for such have been agreed, approving all procedures, systems and documentation used.
- b. Ensuring that claims for Government grants and other monies are made properly and promptly.
- c. Ensuring that all monies received are properly receipted and recorded and banked promptly.
- d. Administering the process for writing off irrecoverable debts, and monitoring and reporting on write off levels.
- e. Recommending and implementing the Council's debt management policy.

3.2 Budget Managers are responsible for:

- a. Ensuring that fees and charges for services are reviewed at least annually, consulting with the Executive Director of Finance & Resources and Cabinet Members on the financial effect of the review, and obtaining Cabinet Member approval to any proposal to introduce new charges.
- b. Collecting payment at point of sale wherever possible to improve cash flow.
- c. Timely initiation of 'sales orders' in respect of all fees and charges due.
- d. Administering any local systems for invoicing, income collection and debt recovery as directed by the Executive Director of Finance & Resources.
- e. Providing operational data and information to ensure that claims for Government grants and other monies are made properly and promptly.
- f. Authorising the write off of irrecoverable debts on the recommendation of the Executive Director of Finance & Resources and subject to the requirements set out in the Schedule of Financial Authority to Officers.

### **4. *Expenditure - Procurement***

4.1 The Executive Director of Finance & Resources is responsible for:

- a. Issuing guidance on the ordering, certification and payment for all works, goods and services, subject to the provisions of the procurement code.
- b. Processing all payments due on receipt of a valid invoice or contract certificate which satisfies VAT regulations, and confirmation that works, goods and services have been received.
- c. Agreeing any exceptions to the requirement to raise purchase orders for all works, goods and services.
- d. Administering procurement cards and credit cards and processing payments.
- e. Agreeing the use of any pre-loaded payment cards.
- f. Ensuring that an effective procurement code is in place.



- 4.2 Budget Managers are responsible for:
- a. Ensuring that all purchase orders are raised using the Council's financial system, for all works, goods and services other than:
    - purchases appropriately made through petty cash, procurement card or credit card
    - continuous charges for utilities supplies, or periodic payments such as rents or rates, and treasury management payments
    - expenditure incurred on the Housing Revenue Account
  - b. any other exceptions agreed with the Executive Director of Finance & Resources Ensuring that no purchase orders are placed without the proper approvals and financial authorities set out in the Schedule of Financial Authority to Officers and the procurement code.
  - c. Receipting all works, goods and services on the financial system.
  - d. Ensuring the proper completion and authorisation of payment certification vouchers, including confirming that the invoice has not previously been paid.
  - e. Ensuring that payments are made only where works, goods and services have been received to the correct price, quantity and quality standards.
  - f. Complying with the requirements of the Council's procurement code.
  - g. Ensuring that all procurement and credit cards are appropriately controlled, and that all expenses and other transactions are reviewed and authorised by the relevant line manager, are for proper business purposes, are supported by receipts, and are compliant with any other restrictions in force.
  - h. Ensuring that the transactions recorded on procurement or pre-paid cards is properly recorded on the Council's primary finance system.
  - i. Complying with approval limits set out in the Schedule of Financial Authority to Officers and any further limitations set out within the procurement code.

4.3 Other responsibilities:

- a. Chief Officers are empowered to expend from within their allocated service budget expenditure up to the amount set out in the Schedule of Financial Authority to Officers in any single case where the Chief Officer is of the view that a finding of maladministration with injustice is likely to be found by the Local Government Ombudsman.
- b. In circumstances where compensation is above the amount set out in the Schedule of Financial Authority to Officers, the committee authority is required.

**5. Expenditure - Payroll**

5.1 The Executive Director of Finance & Resources is responsible for making emergency payments to staff in extremis and where practicable, such as in the case of payroll failure.

5.2 The Director of Human Resources is responsible for:

- a. Operating sound arrangements for the payment of salaries, pensions and expenses to officers and in accordance with the Members Allowances Scheme administered by the Head of Legal and Democratic Services.
- b. Providing a corporate payroll system for recording all payroll data and generating payments to employees and members, including payment of pensions and expenses.
- c. The proper calculation of all pay and allowances, National Insurance and pension contributions, income tax and other deductions.
- d. Completing all HMRC returns regarding PAYE and providing advice and guidance on employment related taxation.
- e. Maintaining an accurate and up to date record of the Council's establishment.

5.3 Budget Managers are responsible for:

- a. Controlling resources and containing staff numbers within approved establishment and budget levels.
- b. Ensuring that all employee appointments, including temporary staff, are made in compliance with the Council's policies.
- c. Ensuring that the Hampshire Integrated Business Centre is notified promptly of starters and leavers, and all information relating to employees' pay and expenses.
- d. Ensuring that all payments made to employees are properly authorised in compliance with the requirements and financial limits set out in Council's human resources policies.
- e. Ensuring that for expenses, managers review their audit samples of expense claims, validate that there are appropriate receipts in place, and make these available for audit as and when required.
- f. Ensuring that all persons employed by the Council are paid through the Council's payroll, other than where the Director of Human Resources has agreed that the individual is bona fide self-employed or employed by a recognised agency.
- g. Ensuring that all temporary employees are appropriately recorded as per IR35 regulations.

**6. Expenditure - Banking**

6.1 The Executive Director of Finance & Resources is responsible for:

- a. Managing and operating all the Council's bank accounts and ensuring that all payment methods, whether physical (e.g. cheques) or electronic, have the appropriate authorisations, approvals and signatures.
- b. Ensuring that adequate controls are in place for the control of payment methods (including cheques) covering access, ordering, custody, preparation, signing and despatch as appropriate.
- c. Ensuring regular reconciliations are carried out between all bank accounts and the financial records of the Council.
- d. Approving the operation of any local cash or bank imprest accounts.

- 6.2 Budget Managers are responsible for:
- a. Ensuring that no bank accounts are opened in the name of the Council other than with the express written authority of the Executive Director of Finance & Resources.
  - b. Reporting to the Executive Director of Finance & Resources on the nature and state of any bank accounts for which they are responsible.
  - c. The proper administration of any local cash or bank imprest accounts including record keeping, document retention, paying in income, reconciliation and control of cheques including ordering, custody, preparation, signing and despatch.

## **7. Treasury Management**

- 7.1 The Executive Director of Finance & Resources is responsible for:
- a. Preparing and presenting an annual Treasury Management Strategy Statement to Cabinet prior to submission to the Council for approval.
  - b. Implementing, reviewing and reporting on the progress and outturn performance of the strategy and recommending any changes.
  - c. Preparing and maintaining a Treasury Management Policy Statement, stating the policies, objectives and approach to risk management of its treasury management activities.
  - d. Preparing and maintaining suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.  

The content of the Treasury Management Policy Statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the CIPFA Treasury Management in the Public Services Code of Practice (the Code), subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
  - e. Ensuring that the organisation (i.e. Full Council) receives reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual outturn report after its close, in the form prescribed in its TMPs.
  - f. Effecting all investments and arranging borrowings within the limits imposed by the Council and reporting on the funding methods used.
  - g. Approving the use of any finance leases.
  - h. Ensuring that the use of any financial derivatives is intra vires and properly risk assessed and monitored.
  - i. Ensuring compliance with all applicable laws, regulations and codes of practice relating to treasury management and capital finance.
  - j. Ensuring that cash flow forecasting and monitoring systems are in place.

- k. Maintaining and authorising any amendments to the approved counterparty list.

7.2 Budget Managers are responsible for:

- a. Assisting cash flow through timely billing of income owing, due consideration of contracts payment terms and minimising advance payments wherever possible.
- b. Supporting cash flow forecasting and notifying the Treasury Team in advance of any high value receipts or payments that may impact on investments and borrowings.
- c. Ensuring that no finance leases or borrowings are entered into without the approval of the Executive Director of Finance & Resources.

7.3 Other responsibilities:

- a. This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies, strategies and practices to Cabinet, and for the execution and administration of treasury management decisions to the Executive Director of Finance & Resources, who will act in accordance with the organisation's policy statement, strategy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
- b. This organisation nominates the Housing, Finance and Customer Services Committee to be responsible for ensuring the effective scrutiny of the treasury management strategy and policies.

## **8. Taxation**

8.1 The Executive Director of Finance & Resources is responsible for:

- a. Ensuring that transactions comply with relevant statutory requirements and authorities.
- b. Completing a monthly return of VAT inputs and outputs to HMRC, ensuring prompt recovery of sums due, and reconciliation of tax records to the main accounting system.
- c. Making monthly Construction Industry Scheme (CIS) returns to HMRC.
- d. Managing the Council's partial exemption position.
- e. Preparing and submitting Voluntary Disclosure Notices to HMRC and recovery of any revenues due.
- f. Providing advice and guidance on taxation issues.
- g. Maintaining and updating the Council's VAT manual.

8.2 Budget Managers are responsible for:

- a. Ensuring that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations.
- b. Seeking advice on the potential tax implication of any new initiatives for the delivery of Council activity and services.

- c. Ensuring that the taxation implications of proposed land and building acquisitions and sales are properly identified and considered at the planning stage.
- d. Where construction and maintenance works are undertaken, ensuring that the contractor fulfils the necessary construction industry scheme deduction requirements.
- e. Adhering to all aspects of the Council's VAT manual.

## **9. Asset Management**

9.1 The Executive Director of Finance & Resources is responsible for:

- a. Ensuring that asset registers are maintained in the appropriate format for accounting purposes for all fixed assets valued in excess of the limit set out in the Schedule of Financial Authority to Officers, and that valuations are made in accordance with the local authority accounting code of practice.
- b. Ensuring that the Executive Director for Growth, Planning and Housing puts in place an asset management plan that details short, medium and long term use of assets, and establishes arrangements for monitoring and reporting asset performance.
- c. Ensuring that all asset acquisitions and disposals are properly recorded and comply with the disposal policy and investment strategy.
- d. Prescribing the records to be maintained for any stocks and stores and for inventories of moveable assets.
- e. Approving the write off of deficiencies in any stocks, stores and inventory items subject to the limits set out in the Schedule of Financial Authority to Officers.

9.2 The Executive Director for Growth, Planning and Housing is responsible for:

- a. Maintaining up to date records of all land and buildings, including values, for inclusion in the corporate fixed asset register, and of the Council's housing stock in the format prescribed by the Executive Director of Finance & Resources.
- b. Arranging for the regular valuation of assets for accounting purposes to meet the requirements specified by the Executive Director of Finance & Resources.
- c. Establishing an asset management plan that details short, medium and long term use of assets, and monitoring and reporting on performance.
- d. Arranging the disposal of surplus assets in compliance with the disposal policy, or approved Housing Revenue Account asset management strategy, and subject to the necessary approvals.
- e. The acquisition of land and buildings on behalf of the Council in accordance with the asset management plan, Capital Programme and medium term financial plan, and subject to the necessary approvals.
- f. Notifying the Executive Director of Finance & Resources of acquisitions and disposals so that the accounting records can be updated.

- 9.3 Budget Managers are responsible for:
- a. Providing the Executive Director for Growth, Planning and Housing with all relevant information and documentation for the purposes of maintaining an up to date and complete fixed asset register.
  - b. Maintaining local inventories of moveable assets as directed by the Executive Director of Finance & Resources.
  - c. Ensuring that any stocks and stores are properly recorded and that unnecessarily high levels do not accumulate.
  - d. Ensuring that any cash holdings are kept to a minimum, within insurance limits and held securely.
  - e. Ensuring the proper security and safe custody of assets and reporting any assets that are lost, stolen or destroyed to the insurance team, facilities management and internal audit as appropriate.
  - f. Complying with guidance issued by the Executive Director of Finance & Resources on disposal of assets.
  - g. Seeking approval to write off deficiencies in any stocks, stores, or inventory items, subject to the limits set out in the Schedule of Financial Authority to Officers.
  - h. Ensuring that assets are used only in the course of the Council's business unless specific permission has been given otherwise

## **10. Insurance**

- 10.1 The Executive Director of Finance & Resources is responsible for:
- a. Determining the nature and level of insurance cover to be effected.
  - b. Effecting insurance cover and processing and settlement of all claims.
- 10.2 Budget Managers are responsible for:
- a. All new risks, properties or vehicles for which insurance is required.
  - b. Alterations affecting insurance arrangements.
  - c. Any loss, damage or claim.

## **11. Recharges**

- 11.1 The Executive Director of Finance & Resources is responsible for:
- a. Maintaining an appropriate system of internal recharges which ensures that the full cost of each service is identified.
  - b. Processing all charges and recharges on a regular and timely basis.
  - c. Advising on the operation of internal trading accounts.
- 11.2 Budget Managers are responsible for:
- a. Agreeing the basis of internal charges/recharges in advance of the financial year as part of the budget setting process.
  - b. Maintaining appropriate systems to calculate recharges or justify their apportionment.
  - c. Providing data to enable recharges to be processed on a regular and timely

- basis and responding in the event of any disputed charges.
- d. Complying with guidance issued by the Executive Director of Finance & Resources in relation to the operation of trading accounts.

## **Part G: External Arrangements**

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### **1. Principles**

- 1.1 All partnerships and joint working arrangements with outside bodies must be properly evaluated for risk before they are entered into, and be supported by clear governance, accounting and audit arrangements. Full Cabinet approval is required in order to set-up a new entity, such as a joint venture.
- 1.2 External funding can prove an important source of income but funding conditions must be carefully examined before any agreement is entered into to ensure they are compatible with the aims and objectives of Council.
- 1.3 Legislation enables the Council to trade and provide services to third parties. All such work must be intra vires and the respective risks and financial benefits associated with such work must be properly considered and a business case approved before any trading activities take place.

### **2. Partnerships and Joint Working**

- 2.1 The Executive Director of Finance & Resources is responsible for advising on the financing, accounting and control of partnership arrangements including:
  - a. Financial viability in current and future years
  - b. Risk appraisal and risk management arrangements
  - c. Resourcing and taxation
  - d. Audit, security and control requirements
  - e. Assessing any financial implications that may arise from these arrangements under IFRS9.
- 2.2 Budget Managers are responsible for:
  - a. Ensuring that any arrangements do not impact adversely upon Council services, that risk assessments have been carried out, and that appropriate approvals have been obtained before entering into any agreements.
  - b. Ensuring that agreements and arrangements are properly documented.
  - c. Maintaining local registers of partnerships entered into.
  - d. Providing appropriate information to the Executive Director of Finance & Resources to enable relevant entries to be made in the Council's accounts.
  - e. Ensuring that appropriate mechanisms are in place to monitor and report on performance.

### **3. External Funding**

- 3.1 The Executive Director of Finance & Resources is responsible for:
- a. Ensuring that any match funding requirements are considered prior to entering into any agreement, that future revenue budgets reflect these requirements, and that any longer term sustainability costs have been properly assessed.
  - b. Ensuring that all external funding is received and properly recorded in the Council's accounts and in the name of the Council.
  - c. Maintaining a central register of external funding/grant arrangements.
  - d. Ensuring that all audit requirements are met.
- 3.2 Budget Managers are responsible for:
- a. Ensuring that the sustainability of funding is assessed for risk, any agreements entered into are consistent with and support the Council's service priorities, and necessary approvals have been obtained.
  - b. All claims for funds are made by the due date.
  - c. Work is progressed in accordance with the project plan and all expenditure is properly incurred and recorded.

### **4. Trading**

- 4.1 The Executive Director of Finance & Resources is responsible for:
- a. Issuing guidance on the assessment of trading opportunities and options.
  - b. Advising on and approving the financial implications of any proposed trading arrangements between the Council and third parties.
  - c. Advising on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and statutory requirements and that the results of trading operations are properly recorded and reported.
- 4.2 Budget Managers are responsible for:
- a. Identifying potential trading opportunities, and evaluating the respective risks and financial benefits in accordance with the guidance issued by the Executive Director of Finance & Resources.
  - b. Obtaining the approval of the Executive Director of Finance & Resources and the Cabinet Member before proceeding.
  - c. Maintaining up to date details of all contracts on the corporate contracts register.
  - d. Complying with guidance issued by the Executive Director of Finance & Resources in relation to the operation of trading accounts and the proper recording and reporting of trading results.



**SCHEDULE OF FINANCIAL AUTHORITY TO OFFICERS  
INTRODUCTION**

1. The Scheme of Delegated Authority to Officers sets out the powers and duties delegated to members of the Senior Leadership Team (SLT). SLT members may appoint appropriate “authorised officers” to act on their behalf. For the purposes of these Financial Regulations a member of SLT is defined as any post holder who is Band 6 or Band 7.
  
2. This Schedule sets out the approved financial limits within which SLT members, and authorised officers, may conduct the Council's business. Changes to the limits/values contained within this Schedule may only be made with the approval of the Executive Director of Finance & Resources . Additionally, any changes to Members approval levels also require the approval of Council on recommendation of the Cabinet Member for Finance, Property and Regeneration.
  
3. For those items marked, the relevant SLT member has discretion to appoint appropriate authorised officers to act on his/her behalf. In all cases the member remains accountable for the effective operation of the financial authorities and must:
  - Maintain a written record of authorised officers.
  - Ensure that an appropriate segregation of duties is in operation, e.g., between ordering and paying for goods, between claiming and approving expenses.
  - Ensure compliance with the financial limits in this Schedule and any additional financial restrictions and limitations imposed by the Procurement Code (e.g., limits relating to waivers, extensions and variations) and HR policies (e.g., limits relating to overtime, allowances, honoraria and expenses).

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**FINANCIAL MONITORING AND CONTROL (FINANCIAL REGULATIONS – PART D)**

REF	DESCRIPTION	LIMIT/VALUE	APPROVER
Part D Sec 3	Individual Revenue Virements: <ul style="list-style-type: none"> <li>• Reallocation of approved budgets; system errors, technical accounting adjustments, coding changes within overall spending limits and reserves.</li> <li>• Virements with budget and policy changes.</li> </ul>	Unlimited  Up to £500k £500k to £1m  Over £1m	Executive Director of Finance & Resources  Executive Director of Finance & Resources in conjunction with appropriate Cabinet Member Relevant Cabinet Member in consultation with Cabinet Member for Finance, Property and Regeneration Leader or Cabinet

REF	DESCRIPTION	LIMIT/VALUE	APPROVER
	<p>Individual Capital Virements:</p> <ul style="list-style-type: none"> <li>• Reallocation of approved budgets; system errors, technical accounting adjustments, coding changes within overall spending limits and reserves.</li> <li>• Virements with budget and policy changes</li> </ul>	<p>Unlimited</p> <p>Up to £500k</p> <p>£500k to £1m</p> <p>Over £1m</p>	<p>Executive Director of Finance &amp; Resources</p> <p>Executive Director of Finance &amp; Resources in conjunction with appropriate Cabinet Member</p> <p>Relevant Cabinet Member in consultation with Cabinet Member for Finance, Property and Regeneration Leader or Cabinet</p>
	<p>A revenue virement is permissible only in the following circumstances:</p> <ul style="list-style-type: none"> <li>• To correct any errors made in the initial loading of the budget onto the accounting system</li> <li>• To reflect a structural reorganisation</li> <li>• To reflect a change in corporate priorities</li> <li>• The receipt of additional grant or other funding</li> <li>• The distribution of centrally held budgets</li> <li>• To reflect technical adjustments at the discretion of the Executive Director of Finance &amp; Resources</li> <li>• To make an adjustment for the use of earmarked reserves in revenue budgets</li> </ul>	<p>The following transfers are generally not permitted:</p> <ul style="list-style-type: none"> <li>• Transfers between capital and revenue</li> <li>• Transfers between employee related and non-employee budgets</li> <li>• Transfers between controllable and non-controllable (recharges and capital financing) codes</li> </ul>	

**FINANCIAL SYSTEMS AND PROCEDURES (FINANCIAL REGULATIONS – PART F), AND FINANCIAL PLANNING AND BUDGETING (FINANCIAL REGULATIONS – PART C)**

REF	DESCRIPTION	LIMIT/VALUE	APPROVER
<b>INCOME</b>			
Part F Sec 3	Individual Sundry debtor accounts write offs (note this is the sum of debt on an account to be written off not individual invoices)	Up to £10k	SLT member on recommendation of Finance Manager
		£10k to £50k	SLT member on recommendation of Finance Manager – Corporate Finance and with the agreement of a Strategic Finance Manager – Corporate Finance and Tri-Borough Director of Law
		£50k to £100k	SLT member on recommendation of Strategic Finance Manager – Corporate Finance and with the agreement of Assistant Executive Director of Finance & Resources and Tri-Borough Director of Law
		Over £100k	Cabinet Member on recommendation of Executive Director of Finance & Resources and Tri-Borough Director of Law
	Individual Council Tax, NNDR, housing benefits overpayments and former client rent arrears write offs (per account / reference)	Up to £10k	Head of Shared Service Centre
		Up to £100k	Head of Shared Service Centre and Tri-Borough Director of Law
		Over £100k	Cabinet Member on recommendation of Chief Finance Officer and Tri-Borough Director of Law
	Individual Housing rent write offs (per account reference)	Up to £10k	Executive Director for Growth, Planning & Housing with the agreement of Strategic Finance Manager Growth, Planning & Housing

		Up to £100k	Executive Director of Growth, Planning & Housing with the agreement of the Strategic Finance Manager Growth, Planning & Housing and Head of Shared Service Centre.
		Over £100k	Cabinet Member on recommendation of Executive Director of Finance & Resources and Tri -Borough Director of Law
	Individual Council Tax and NNDR Refunds (per account / reference)	Unlimited	Head of Shared Service Centre
	Fees and Charges	Increase/decrease	ELT in consultation with Strategic Finance Manager and Cabinet Member
		New charges	Cabinet Member
<b>EXPENDITURE</b>			
Part F Sec 4	Approving placement of individual orders (commitments) with suppliers/contractors	Up to £10k	Budget Manager (designated by SLT member)
		£10k to £500k	Budget Manager designated by SLT member, following Procurement Code Peer (Procurement Gate Panel recommendation required for expenditure over £100k)
		£500k to £1.5m	Head of Service designated by SLT member
		Over £1.5m (£300k for consultancy agreements)	Cabinet Member
	Approving expenditure commitments on capital schemes	Up to £10k	Budget Manager (designated by SLT member)
		£10k to £500k	Budget Manager designated by SLT member, following Procurement Code Peer (Procurement Gate Panel recommendation required for expenditure over £100k)
		£500k to £1.5m	Head of Service (designated by SLT member) in consultation with CRG
		Over £1.5m	Cabinet Member
Part C Sec 3	Approving additional budget on capital schemes/new capital schemes	Up to £500k	Executive Director of Finance & Resources in conjunction with Lead Member

		Over £500k	Cabinet Member/Cabinet
Part F Sec 4	Authorising payment of invoices	Up to £500k	Budget Manager (designated by SLT member)
		Over £500k	Head of Service, in conjunction with SLT member
	Procurement card transactions/expenses	Up to £500	Approved Departmental Officer
		£500 to £1000	Budget Manager
		£1000 to £2000	Head of Service
	Approving compensatory payments	Up to £2000	ELT Member
		Over £2000	General Purposes Committee
	Corporate credit card transactions (emergency use)	Up to £20k	SLT member (essential that relevant Line Manager has agreed prior approval)
	Cash payments (exceptional use)	£100	SLT member
	Emergency expenditure	Up to £500k	Executive Director City Management and Communities in line with Scheme of Officer Delegations

<b>TREASURY MANAGEMENT</b>			
Part F Sec 7	Expenditure relating to treasury management and investments	Up to £500k	Tri-Borough Director for Treasury and Pensions
		Up to £1.5m	Executive Director of Finance & Resources
		Over £1.5m	Cabinet Member
	Placing of treasury investments	In line with TM Strategy and any operational lower limits	As authorised to transact in letters approved by Executive Director of Finance & Resources
	Expenditure relating to the operating of contracts for the pension fund	Up to £500k	Tri-Borough Director for Treasury and Pensions
		Over £500k	Executive Director of Finance & Resources
	Placing of pension fund investments	Up to £500k	Strategic Investment Manager
		Up to £750k	Tri-Borough Director for Treasury and Pensions
		Up to £1.5m	Executive Director of Finance & Resources
		Over £1.5m	Pension Fund Committee
	Transfers between, withdrawals from or additions to Pension Managers Funds	Up to £1m	Strategic Investment Manager
		Up to £5m	Tri-Borough Director for Treasury and Pensions
		Up to £10m	Executive Director of Finance & Resources
		Over £10m	Pension Fund Committee

<b>ASSET MANAGEMENT</b>			
Part F Sec 9	Writing off deficiencies in stocks, stores and inventories	Up to £10k	SLT member
		£10k to £100k	SLT member with the agreement of Strategic Finance Manager (on behalf of Executive Director of Finance & Resources and Tri-Borough Director of Law)
		Over £100k	Cabinet Member
Page 373	Disposal of freehold and leasehold land and property. Purchase, surrender, renewal, variation and re-gearing of property leases	Where premium does not exceed £500k or rental value does not exceed £125k Where premium exceeds £500k or rental value exceeds £125k	Chief Executive in line with Scheme of Officer Delegations  Cabinet
	Value for including items in fixed assets register	Over £10k	

**EXTERNAL ARRANGEMENTS (FINANCIAL REGULATIONS – PART G)**

<b>REF</b>	<b>DESCRIPTION</b>	<b>LIMIT/VALUE</b>	<b>APPROVER</b>
Part G Sec 3	External trading – business case approval	Contracts up to £1.5m	ELT Member in consultation with Executive Director of Finance & Resources
		Contracts over £1.5m	Cabinet Member



# Protocol for Recording Meetings

## 37.1 Sound Recording

- (1) With the exception of those Meetings referred to in (3) below, meetings of the Council, its Committees and their Sub-Committees, the Cabinet and its Committees shall be sound recorded for the purposes of assisting with the recording of decisions. Such sound recording, which shall not be available to the press and public, to be erased as soon as the Minutes of the relevant meeting have been approved at a subsequent meeting.
- (2) The Chief Executive may authorise in exceptional cases the retention of the sound recording of any specific meeting if in his opinion, it would be useful in the conduct of the business of the City Council or otherwise be appropriate.
- (3) In circumstances where the press and public have been excluded these meetings will not normally be sound recorded.
- (4) The Chairman of the Westminster Scrutiny Commission, the Policy and Scrutiny Committees and Task Groups or Sub-Committees relating thereto shall have the discretion to dispense with the requirement to have particular meetings sound recorded where it is not appropriate or practical to do so.

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# Code of Governance

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# **CODE OF GOVERNANCE**

# **GENERAL INFORMATION**

# FRAMEWORK FOR THE NEW CODE OF GOVERNANCE

## 1.0 INTRODUCTION

- 1.1 Westminster recognises that it is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. In discharging this accountability Members and officers will be responsible for putting in place proper arrangements for the governance of the authority's affairs and the resources at its disposal.
- 1.2 To this end the authority has adopted this Code of Corporate Governance which is kept under and updated in accordance with the principles and requirements of the CIPFA/SOLACE Consultation Draft *"Good Governance in Local Government : A Framework"*.
- 1.3 Governance comprises the systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities. The function of governance is to ensure that the authority and connected partnerships fulfil their purpose and achieve their intended outcomes for citizens and service users and operate in an effective, efficient, economical and ethical manner.
- 1.4 The CIPFA/SOLACE revised Framework builds on governance work in both the public and private sectors and in particular *"The Good Governance Standard for Public Services"* drawn up by the Independent Commission on Good Governance in Public Services. The six core principles from the Good Governance Standard have been adapted and form the basis of the framework:
- 1.5 Good governance means:
- (i) Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area
  - (ii) Members and officers working together to achieve a common purpose with clearly defined functions and roles
  - (iii) Promoting the values of the authority and demonstrating the values of good governance through behaviour
  - (iv) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
  - (v) Developing the capacity and capability of Members to be effective and ensuring that officers – including the statutory officers – also have the capability and capacity to deliver effectively
  - (vi) Engaging with local people and other stakeholders to ensure robust local public accountability.

## **2.0 ELEMENTS OF CORPORATE GOVERNANCE**

**To achieve the principles of good corporate governance, the authority supports and will apply the six core principles, and their related supporting principles, as follows:**

### **2.1 Core principle (i)**

**Focussing on the purpose of the authority and on outcomes for the community including citizens and service users and creating and implementing a vision for the local area.**

#### **Supporting principles**

- exercising leadership by clearly communicating the authority's purpose and vision and its intended outcome for citizens and service users.
- ensuring that users receive a high quality of service whether directly, or in partnership or by commissioning.
- ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

#### **The authority:**

- reviews on a regular basis for its vision for the local area and its impact on the authority's governance arrangements by keeping the Council Tax affordable and through the Living City Programme.
- measures and ensures that the information needed to review service quality effectively and regularly is available through Performance Planning and Monitoring.
- through Performance Planning decide how value for money is to be measured and ensure that the information needed to review value for money and performance effectively is available to the Audit and Performance Committee and the Policy and Scrutiny Committees. The authority also ensure that the results are reflected in the Council's plans, department's service plans and in reviewing the work of the authority.
- has in place effective arrangements to deal with failure in service delivery.
- a clear statement of the authority's purpose and vision and use it as a basis for corporate and service planning and shaping the Community Strategy and Local Area Agreement.



- when working in partnership will ensure that there is a common vision underpinning the work of the partnership that is understood and agreed by all partners.

## **2.2 Core principle (ii)**

### **Members and officers working together to achieve a common purpose with clearly defined functions and roles**

#### **Supporting principles**

- ensuring effective leadership throughout the authority by being clear about executive and non executive functions and of the roles and responsibilities of the scrutiny function
- ensuring that a constructive working relationship exists between elected Members and officers and that Members and officers carry out their responsibilities to a high standard.
- ensuring relationships between the authority and the public are clear so that each know what to expect of the other.

#### **The authority has:**

- a clear statement of the respective roles and responsibilities of the Executive and of the Executive's members individually.
- a clear statement of the respective roles and responsibilities of Members in the existing Code of Governance
- developed protocols to ensure effective communication between Members and officers in their respective roles in the existing Code of Governance
- ensured that effective mechanisms exist to monitor service delivery through Performance Planning and Monitoring
- a scheme of delegated powers within the Constitution, including details of those matters reserved for collective decision the full Council taking account of relevant legislation and ensures that it is monitored and updated when required
- ensured that effective management arrangements are in place at the top of the organisation.
- made the City Treasurer 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.

- made the Monitoring Officer / Director of Law responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes, regulations and other relevant statements of good practice are complied with.
- will ensure that the Leader of the Council and Chief Executive agree their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.
- will ensure that the Council's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders through partnership working, and that they are clearly articulated and disseminated
- when working in partnership will (i) ensure that there is clarity about the legal status of the partnership; (ii) ensure that the roles and responsibilities of the partners are agreed so that there is effective leadership and accountability and (iii) ensure that representatives or organisations make clear to all other partners the limit of their authority to bind their organisation to partner decisions

### **2.3 Core principle (iii)**

#### **Promoting the values of the authority and demonstrating the values of good governance through behaviour**

##### **Supporting Principles**

- ensuring council Members and officers exercise leadership by behaving in ways that uphold high standards of conduct and exemplify effective governance.
- ensuring that organisational values are put into practice and are effective.

##### **The authority has:**

- developed and maintained shared values including leadership values both for the organisation and its staff reflecting public expectations about the conduct and behaviour of individuals and groups within and associated with the authority such as set out in the Customer Charter.
- adopted formal Codes of Conduct defining the standards of personal behaviour as set in the Council's Constitution as in the Members Code of Conduct.

- developed and maintained an effective Standards Committee which acts as the main means to raise awareness and take the lead in ensuring high standards of conduct are firmly embedded within the local culture. The Terms of Reference of the Standards Committee and Membership are set out in the Council's Constitution.
- put in place arrangements to ensure that Members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders by ensuring that the Members Register of Interest Register is kept up to date by sending out regular reminders to Members, asking Members and Officers at the beginning of each meeting to declare any interests relative to the agenda and sending out yearly Related Party Transaction forms for all Members and Chief Officer to complete. Cabinet Members are required to declare any interest prior to taking an individual executive decision.
- will use the authority's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority.
- put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and to monitor continuing compliance in practice.
- in pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values will be 'alive' and demonstrated by partners' behaviour both individually and collectively.

## **2.4 Core principle (iv)**

### **Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

#### **Supporting principles**

- exercising leadership by being rigorous and transparent about how decisions are taken and listening to and acting upon the outcome of constructive scrutiny.
- having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- making sure that an effective risk management system is in place.
- recognising the limits of lawful action and observing both the specific requirements of legislation and the general responsibilities placed on local authorities by public law, but also accepting responsibility to use

their legal powers to the full benefit of the citizens and communities in their area.

**The authority has:**

- developed and maintained an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall. This is outlined in detail in the Council's Constitution.
- developed and maintains effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based through Minutes and Reports to Council. All non-exempt Council, Cabinet, Committee Agendas/minutes, Cabinet Member Reports, Statements of Decisions and Minutes are available on the Council's Website and in person upon request.
- put in place arrangements for whistle blowing to which staff and all those contracting with the authority have access. The Whistle Blowing Policy is available on the website.
- developed and maintained an effective Audit and Performance Committee which is independent of both the Executive and the scrutiny function.
- developed and maintained an effective Standards Committee which (1) satisfies all relevant statutory requirements, undertakes its role impartially with all its Members have been trained in the duties of the Standards Committee; (2) all reports authorised by legal officers, on behalf of the Monitoring Officer before submission being issued for decision. Report Writing Guide issued on behalf of the Monitoring Officer, which contains relevant report templates.
- ensured that those making decisions are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications through producing a Forward List of forthcoming decisions clearly stating when reports will be sent to Executive Members for decision and by officers following best practice guidelines before the formal issue of Cabinet Member Reports.
- ensured that professional advice on legal and financial matters is available and recorded well in advance of decision making and used appropriately when decisions have significant legal or financial implications.
- ensured 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. This is incorporated into each Department's Service and Business Plan.

- has developed and maintains effective arrangements for determining the remuneration of all staff.
- ensure that risk management continues to be embedded into the culture of the authority, with Members and managers at all levels recognising that risk management is part of their job.
- actively recognise the limits of lawful activity placed on them by the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities making use of relevant legislation eg LGA 2003.
- when working in partnership, put in place protocols for working together which include a shared understanding of respective roles and responsibilities of each organisation.
- when working in partnership, ensure that there are robust procedures for scrutinising decisions and behaviour and that these decisions and behaviours are compliant with the City Council's own rules/codes or comply with any rules/codes developed for the purpose of the partnership.
- when working in partnership, ensure that partnership papers are easily accessible and meetings are held in public unless there are good reasons for confidentiality. The partners must ensure that:
  - the partnership receives good quality advice and support and information about the views of citizens and stakeholders, so that robust and well reasoned decisions are made
  - risk is managed at a corporate and operational level.

## 2.5 Core principle (v)

**Developing the capacity and capability of members to be effective and ensuring that officers – including the statutory officers – also have the capability and capacity to deliver effectively.**

### **Supporting principles**

- making sure that Members and officers have the skills, knowledge, experience and resources they need to perform well in their roles
- developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group
- encouraging new talent for membership of the authority so that best use can be made of resources in balancing continuity and renewal.

**The authority has:**

- provided induction programmes tailored to individual needs and opportunities for Members and officers to update their knowledge on a regular basis.
- put in place effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.

**The authority will:**

- develop those skills of Members and Officers to enable roles to be carried out effectively.
- ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority.
- develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- put in place arrangements for reviewing the performance of the Executive as a whole and of individual Members and agreeing an action plan which might for example aim to address any training or development needs.
- consider career structures for Members and officers to encourage participation and development.
- when working in partnership, ensure that partners individually and the partnership collectively share responsibility for appointing people to the partnership who have the required skills and are at an appropriate level.

**2.6 Core principle (vi)****Engaging with local people and other stakeholders to ensure robust local public accountability****Supporting principle**

- exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders including partnerships, and develops constructive accountability relationships.
- taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery.

- making best use of resources by taking an active and planned approach to meet responsibility to staff.

**The authority has:**

- on an annual basis, published 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.
- put in place effective systems to protect the rights of staff. Ensure that policies for whistle blowing which are accessible to staff and those contracting with the authority, and arrangements for the support of whistle blowers, are in place.
- produce an annual report on Scrutiny.

**The authority will:**

- make clear within the authority, all staff and the community, to whom they are accountable and for what.
- consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required.
- establish clear channels of communication with all sections of the community and other stakeholders and put in place monitoring arrangements to ensure that they operate effectively.
- put in place arrangements 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 there will be explicit processes for dealing with these competing demands.
- establish a clear policy on the types of issues they will meaningfully consult or engage with the public and service users including a feedback mechanism for those consulted.
- develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.
- ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

- when working in partnership, ensure that engagement and consultation undertaken by the partnership is planned with regard to methodology, target audience and required outcomes. Existing mechanisms and groups should be used where appropriate. In the work cycle of the partnership it must be clear and demonstrable to the public what has happened to any feedback and what has changed as a result.

### **3.0 MONITORING AND REPORTING**

- 3.1 The authority will undertake regular reviews of its governance arrangements to ensure continuing compliance with best practice. It recognises the importance of ensuring that such reviews are reported both within the authority, to the Audit and Performance Committee and externally with the published accounts, to provide assurance that: corporate governance arrangements are adequate and operating effectively in practice; and where reviews of the corporate governance arrangements have revealed gaps, action is planned that will ensure effective governance in future.
- 3.2 The authority will prepare an annual Governance Statement and in so doing recognises that the process of preparing the Governance Statement should itself add value to the authority's corporate governance and internal control framework. It will be submitted to the Audit and Performance Committee and reported to the Council for information.
- 3.3 It will therefore cover performance issues – good governance promotes good service but poor service performance reflects a failure of governance.
- 3.4 It is accepted that approval and ownership of the Governance Statement should be at a corporate level and should be confirmed by the Chief Executive and Leader signing the statement on behalf of the authority.
- 3.5 In reviewing and approving the Governance Statement, Members will be provided with assurances on the effectiveness of the governance framework, and in particular the system of internal control, and how these address the key risks faced by the authority. Those assurances will be available from a wide range of sources, including internal and external audit, a range of external inspectorates and managers from across the authority. Management will provide the primary source of assurance. However, an effective internal audit function will also be a significant source of assurance.
- 3.6 The authority will strive to establish an assurance framework, embedded into its business processes, that maps strategic objectives to risks, controls and assurances. Such a framework will provide Members with assurances to support the Governance Statement on a structured basis, and will help Members to identify whether all strategic objectives and significant business risks are being addressed.



## **SECTION 1: GENERAL INFORMATION RELATING TO THE COUNCIL'S OVERALL DECISION MAKING PROCESS**

**This section deals with the City Council's Constitution, including**

- Citizen's Rights
- Meeting Procedures
- Terms of Reference of the Cabinet, Cabinet Members and Committees
- The Role of the full Council
- The Role of the Leader of the Council
- The Role of the Cabinet
- Policy and Scrutiny Committees
- Regulatory and other Committees
- Joint Arrangements
- The Lord Mayor of Westminster
- The Lord Lieutenant

### **The Council's Constitution**

The way in which the City Council operates, how decisions are made and the procedures to be followed to ensure that this is efficient, transparent and ensures accountability to local people are set out in the Constitution. The Rights of Citizens' are also included. The Council's General Purposes Committee, supported and advised by the Monitoring Officer, monitors and reviews the operation of the Constitution. The Constitution can be accessed on the website. Enquiries should be referred to Sarah Craddock ext 2770

Access to the Constitution via:

<https://committees.westminster.gov.uk/ieListDocuments.aspx?CId=403&MId=4776&Ver=4&info=1>

A copy of the Constitution is sent to every Member of the Council upon election and Members are urged to read it.

### **Citizen's Rights**

Citizen's have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others are provided for within the Council's own processes. The rights of citizens are set out in the Council's Constitution.

## **Standing Orders**

Standing Orders, regulate the proceedings of business for Council, the Executive and Committees. Standing Orders can only be varied by the full Council on the recommendation of the General Purposes Committee. They must always be followed, unless properly suspended by agreement at a meeting where suspension of Standing Orders is agreed. However, Standing Orders, which are derived from statute, cannot be suspended. Anyone who identifies a breach should refer the matter to the Chief Executive and the Monitoring Officer.

## **Terms of Reference**

There are terms of reference for the Cabinet, Cabinet Members and Cabinet Committees and all other Council Committees and Sub-Committees. The scheduling and convening of meetings, issuing of agendas, production of minutes, etc is the responsibility of Officers in the Cabinet, Committee and Scrutiny Secretariat. If you have any questions about decision making procedures or terms of reference please contact Reuben Segal, the Head of Committee and Governance Services on extension 3160 or any of this team.

## **The List of Forthcoming Decisions**

The list is a rolling programme which sets out all “key” decisions and also other significant Executive Decisions to be taken over the next few months by the Executive, ie:-

- The Cabinet
- Committees of the Cabinet
- Individual Members of the Cabinet
- Officers (Key Decisions only)

The forthcoming list includes details of:-

- The matter in respect of which a decision is to be made
- The decision taker (eg the Cabinet or an individual Cabinet Member)
- The date on which, or the period within which, the decision will be taken
- The identity of the “stakeholders” whom the decision taker proposes to consult before taking the decision
- The means by which any such consultation is proposed to be undertaken
- The steps any person might take who wishes to make representations to the decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken
- A list of documents submitted to the decision taker for consideration in relation to the matter

The definition of a “key” Decision as set out in statutory regulations is:-

- (a) an executive decision which is likely to result in the local authority incurring expenditure which is, or the makings of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or
- (b) one which is considered to be significant in terms of its effects on communities living or working in an area comprising of two or more wards or electoral divisions in the area of the local authority.

Any enquires relating to the list of forthcoming decisions should be referred to Reuben Segal, Head of Committee and Governance Services (x3160) or any of this team.

Access to the list of Executive Decisions via:

<http://committees.westminster.gov.uk/mgDelegatedDecisions.aspx?bcr=1&DM=0&DS=2&K=0&DR=&V=0>

## **The Council, the Leader of the Council, the Cabinet and Cabinet Committees**

### **The Council**

The Council is composed of 60 Councillors elected every four years. Councillors are democratically accountable to the residents (ie their constituents) of their respective wards. The overriding duty of Councillors is to the whole community, but they have a special duty to all their constituents. Westminster, like all local authorities, only has the power to take the actions it is allowed to by law. Any action or proposed action which a local authority does not have the power to undertake is referred to as “ultra vires” (beyond the powers conferred). Any such action would be open to challenge in the courts.

Meetings of the Council are held about 6 times a year and are open to the public. Details of all the functions exercised by the Council are set out in the Constitution.

There are 3 categories of Council meeting:-

- (a) the Annual meeting
- (b) ordinary meetings
- (c) extraordinary meetings

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

- To provide leadership within the Council
- To undertake executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews

- To represent the Council in the community and in discussions and negotiations with regional, national and international organisations and others in relation to the pursuit of matters of interest to the authority and its community.
- To chair the Cabinet and to take responsibility, individually or collectively, for any specific portfolio allocated by the authority, including providing a political lead on and proposing new policy, strategy, programming, budget and services standards, as well as acting as spokesperson for the authority.

## **The Executive (or Cabinet)**

The Cabinet consists of the Leader and a maximum nine other Members of the Council appointed by the Leader. In general terms the Cabinet is the part of the Council responsible for the major policy decisions of the Council. When major key decisions are to be discussed or made, these are published in the Council's Forward Plan. The Cabinet has to make decisions which are in line with the Council's overall policy framework and budget. If it wishes to make a decision which is outside the budget or policy framework, the matter must be referred to the Council as a whole to decide. Meetings of the Cabinet are generally held monthly in public except where personal or confidential matters are being discussed. Decisions arising from Cabinet meetings are published and placed on the Council's website after each Cabinet meeting. They are also placed on the Council's website. Under the Policy and Scrutiny Procedure Rules any decisions capable of being "called in" are not implemented until five working days have elapsed from the decisions being published to allow time for three Members of the relevant Policy and Scrutiny Committee (or all three Members of a single ward affected by the decision) to decide if they wish to call the decision in.

An Urgency Committee of the Cabinet has been set up to deal with all matters, within the terms of reference of the Cabinet, which cannot wait for a decision by the Cabinet at its next programmed meeting.

### **Individual Cabinet Members**

In addition to the above, each Cabinet Member has decision-making powers within a given portfolio. These powers can only be exercised on consideration of an officer report. Prior to reports being considered by individual Cabinet Members, the relevant Chief Officer may brief his/her Cabinet Member on the content/implications of these reports. Subsequently decision takers are published in the same way as those taken by the Cabinet.

### **Informal Meetings of Cabinet Members**

There are occasions when it is necessary for officers to brief Cabinet Members as a group. When such a need arises the relevant Chief Officer(s) will present papers for consideration in the format of briefing notes. These meetings are non-decision making, but may provide "steers" to officers as to what Cabinet Members are likely to support to enable officers to progress a proposal further.

## **Cabinet Committees**

The Leader of the Council has the power to appoint and determine the membership and terms of reference of Cabinet Committees.

## **Cabinet Working Parties**

The Leader of the Council also has the power to appoint and determine the membership and terms of reference of any non-decision making Cabinet Working Parties.

## **Policy and Scrutiny Committees**

The City Council has 6 Policy and Scrutiny Committees including an overarching body known as the Westminster Scrutiny Commission which has responsibility for and reviewing the operation of the Policy and Scrutiny Committees as well as scrutinising the work of the Leader of the Council.

### **The Policy and Scrutiny Committees**

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions.
- make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in the discharge of any functions.
- consider any matter affecting the area or its inhabitants.
- exercise the right to "call in" a decision which has been made by the Executive but not yet implemented to enable consideration to be given as to whether the decision is appropriate.

### **Policy development and review role**

- to assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.
- to conduct research, community and other consultation in the analysis of policy issues and possible options.
- to consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- to question members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area.
- To liaise with other external organisations.

## **Scrutiny role**

- to review and scrutinise the decisions made and performance of the Executive and/or committees and council officers in relation to individual decisions and over time.
- to review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- to question members of the Cabinet and/or Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- to make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process.
- to review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Policy and Scrutiny Committee and local people about their activities and performance and.
- to question and gather evidence from any person (with their consent).

## **Regulatory and other Committees**

### **Standards Committee**

The Standards Committee is composed of six Councillors. The Council's Independent Persons are invited to attend. The Standards Committee's role and function is to:-

- (a) promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives;
- (b) assist the councillors, co-opted members of church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advise the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitor the operation of the Members' Code of Conduct;
- (e) advise, train or arrange to train councillors co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) grant dispensation to councillors co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

- (g) deal with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer;
- (h) maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority.
- (i) deal with alleged complaints by Members relating to alleged breaches of the Members' Code of Conduct.

### **Audit and Performance Committee**

The Audit and Performance Committee is composed of five Members of the Council and is independent of the Executive and Overview and Scrutiny functions. The Committee has the following duties:

- Audit activity.
- Regulatory framework
- Risk Management
- Accounts
- Performance Monitoring

It has the following Sub-Committees:

- Appointments
- Staff Appeals
- Urgency Sub-Committee

### **General Purposes Committee**

The General Purposes Committee is composed of 10 Members of the Council and has responsibility for the following functions:-

- Health and Safety
- Elections and Electoral Registration

It recommends the Council in respect of:-

- Members' Allowances
- The promotion and opposition of legislation and bylaws
- The Constitution and Standing Orders

It has the following Sub-Committees.

- Urgency Sub-Committee
- Education (Awards)

## **Joint Arrangements**

In order to promote the economic, social or environmental well being of its area, the Council or the Cabinet may:-

- Enter into arrangements or agreements with any person or body;
- Co-operate with, or facilitate or co-ordinate the activities of any person or body; and
- Exercise on behalf of that person or body or functions of that person or body.

The City Council participates in the following joint arrangements:-

- (a) London Councils
- (b) The Grants Committee
- (c) The London Council's Transport and Environment Committee
- (d) Joint Health Overview and Scrutiny Committee

Further details relating to Joint Arrangements, including any delegations to joint Committees, can be found in the Council's Constitution.

## **The Lord Mayor of Westminster**

The Lord Mayor (a serving Councillor) is elected at the Annual Meeting. The Lord Mayor is the civic and ceremonial head of the Council (and acts in the capacity of Chairman of the Council) and is the First Citizen of Westminster. As such the Lord Mayor represents and promotes the interests and welfare of the City of Westminster, its residents and visitors, council services and activities. A summary of the Lord Mayor's duties and responsibilities is set out in the Constitution.

## **The Lord Lieutenant**

The Lord Lieutenant is the representative of the Queen in Greater London and acts on her behalf on official occasions, including the presentation of awards from the Honours List.



## **SECTION 2 THE OFFICER STRUCTURE**

### **Statutory Officers**

#### **Functions of the Head of Paid Service (ie the Chief Executive)**

##### **Discharge of functions by the Council**

The Head of Paid Service reports to 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. All relevant Local Authorities are required to appoint one of their officers as the Head of the Paid Service. The Chief Executive is the Head of the Paid Service.

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if he/she is a qualified accountant.

#### **Functions of the Monitoring Officer (ie the Director of Law)**

- To maintain the Constitution
- To ensure lawfulness and fairness of decision making
- To support the Standards Committee
- To receive and act on reports made by ethical standards officers and decisions of the case tribunals
- To conduct investigations
- To be the proper officer for access to information
- To advise on whether executive decisions are within the budget and policy framework
- To provide advice on the scope of powers and authority to take decisions, maladministration, impropriety, probity and budget and policy framework issues to all councillors and support and advise officers in their respective roles.

The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service. The Director of Law is the Council's Monitoring Officer.

#### **Functions of the Chief Financial Officer (ie the City Treasurer)**

- To ensure lawfulness and financial prudence of decision making
- To administer financial affairs
- To contribute to corporate management of the Council, in particular through the provision of professional financial advice
- To provide advice
- To give financial information to the media, members of the public and the community.

## **Functions of the Executive Director of Childrens Services**

To be responsible in partnership with other statutory and voluntary agencies for the standard and delivery of all services to children and young people including welfare and education services.

## **Functions of the Executive Director of Adult and Community Services**

- Accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services;
- Professional leadership, including workforce planning;
- Leading the implementation of standards;
- Managing cultural change;
- Promoting local access and ownership and driving partnership working;
- Delivering an integrated whole systems approach to supporting communities;
- Promoting social inclusion and well being.'

To be responsible in partnership with other statutory and voluntary agencies for the standard and delivery of a full range of adult social services.

Further details about the role/duties of the above can be found in the Constitution.

## **SECTION 3 THE FRAMEWORK WITHIN WHICH DECISIONS ARE MADE**

This section deals with:-

- Financial Regulations
- Personnel Regulations
- Procurement & Contracts Code
- Audit Commission
- Performance Planning

### **The Framework within which decisions are made**

All Local Authorities have to have safeguards in place to ensure that they operate within the law, in line with agreed practice and within a controlled framework in terms of decisions taken and service delivery. The key documents approved by the Council in this respect are:

- The Constitution (see earlier)
- Financial Regulations
- Personnel Regulations
- Procurement and Contracts Code

### **Financial Regulations**

The Financial Regulations control the way in which the financial affairs of the Council are administered. The City Treasurer has specific powers and responsibilities under Section 151 of the Local Government Act 1972 to control the administration of the financial affairs of the Council. The Financial Regulations are included in the Constitution.

Section 114 of the Local Government Finance Act 1988 requires the City Treasurer to report if he/she considers that a decision has been made, or is about to be made, involving expenditure which is unlawful or which, if pursued to its conclusion, would be unlawful and likely to cause a loss to the authority. Chief Officers are required to provide the City Treasurer with any information available to them to enable him to fulfil these duties.

The City Treasurer also has the authority for making arrangements for the administration of the Council's financial affairs and must report regularly to the Cabinet and/or the Cabinet Member for Finance, the Audit and Performance Committee and the Finance Policy and Scrutiny Committee, on financial matters within their respective terms of reference. He/she may also require Chief Officers to report similarly to Cabinet Members in respect of the financial aspects of their activities and to the relevant Policy and Scrutiny Committee.

## **Personnel Regulations**

The Personnel Regulations set out the powers and responsibilities of the Director of Human Resources and other Chief Officers for personnel matters. The principal behind these Regulations is the devolution of day-to-day personnel management decisions to the point of service delivery as far as possible whilst ensuring that the Council's responsibilities as an employer are fulfilled. Details of the personnel policies of the Council are set out in the Personnel (The Corporate Framework section). The Council's Disciplinary Code (for staff) is a separate document which is circulated to every new member of staff on appointment.

## **Procurement & Contracts Code**

Westminster has a strong commitment to "Enabling" with the result that many of the Council's services are now provided by external companies under contract to the Council rather than being provided directly by the Council or by in-house staff. Having devoted considerable resources to examining all aspects of the Council's services to ensure they are being delivered in the most efficient and cost effective way, the "Enabling" Programme is drawing towards its conclusion, although identification of possible additional services for "Enabling" will continue as part of an on-going process.

The effective letting, management and monitoring of contracts is central to the way in which Westminster operates. The rules which govern all aspects of contract management are set out in the Procurement and Contracts Code which is included in the Constitution. The Code applies to all Officers dealing with the award, monitoring or reporting of contracts.

The purpose of the Procurement Code is to:-

- ensure that the City Council complies with all local, national and EU-based guidance, legislation and directives;
- ensure a clear audit trail is kept and protect the City Council against the risk of challenge;
- provide clear guidance to officers involved in the tendering and management of contracts;
- encourage the spread of best practice and lessons learned across the Council;
- reduce unnecessary bureaucracy by clarifying what is and is not allowed; and
- contribute to the City Council's aims to provide high-quality, cost-effective services.

## **Public Sector Audit Appointments**

The PSAA is responsible for:

- appointing auditors to local public bodies, including councils, police and crime commissioners, chief constables, fire and rescue authorities and other relevant principal local government bodies;
- setting scales of fees, and charging fees, for the audit of accounts of relevant bodies;
- overseeing the delivery by its appointed auditors of consistent, high-quality and effective external audit services to opted-in bodies; and
- ensuring effective management of contracts with audit firms for the delivery of external audit services to opted-in bodies.

## **Performance Planning**

The business planning process has been continually developed since this process began and helps the City Council focus on the future and identifies a clear course of action to take it there. The purpose of the business planning process at Westminster is:-

1. To bring together financial and service priorities in order to match resources against service objectives, and align legislative, organisational and partnership priorities into a single set of objectives.
2. To provide a sound basis for effective performance monitoring with clear targets and indicators so that Members can see that their priorities are being delivered and Officers know what is expected of them.
3. To think further ahead as an organisation whilst coherently reviewing and revising priorities in the light of any external influences and constraints.
4. To provide a link between strategic priorities and detailed service planning to ensure that a “golden thread” exists between the two.

## **SECTION 4 ROLES/RELATIONSHIPS**

This section deals with:-

- Protocol on Member/Officer Relationships, including:-
  - Principles underlying Member/Officer Relations
  - Relationship between Lord Mayor and Officers
  - Relationship between Leader and other Members of Cabinet and Officers
  - Relationship between Chairman and Members of Policy and Scrutiny
  - Committees and Officers
  - Role of Chairmen generally including relationship with Officers
  - Officer Relationship with Party Groups
  - Members in their Ward role and Officers
  - Deputy Cabinet Members and Lead Members

### **1. Principles underlying Member/Officer relations**

Good administration is dependent upon a successful relationship between Councillors and officers which can only be based upon mutual trust and an understanding of each other's roles and responsibilities. This relationship, and, the trust which underpins it, should not be abused or compromised. Accordingly, Councillors should not attempt in any way to influence the content of officers' reports or recommendations on any matter. Equally, officers should give clear, independent advice. It is not enough to avoid actual impropriety; Members and Officers should at all times avoid any occasion for suspicion and any appearance of improper conduct. The fundamental principle which underlies Member/Officer relationships is that officers are required to be politically neutral. The contents of the Code of Governance and the separate protocol on Member/Officer relationships are intended to ensure that there is no doubt about the roles and procedures of the City Council, which will help this partnership to operate effectively.

Officers serve the City Council as a whole, serving all elected Members. Officers must carry out the Council's work under the direction and control of the Council and properly constituted Committees and Sub-Committees, the Cabinet and Cabinet Members. A Member in an individual capacity (except a Cabinet Member acting within his/her terms of reference) can exercise no lawful authority and Members in general must operate through the Council and its Committees and Sub-Committees. Cabinet Members must exercise their functions in accordance with the Constitution and their terms of reference. However, it is also important that officers recognise the right of Members, the elected representatives, to determine policy and do not act in any way to undermine that right.

## **2. Relationship between Lord Mayor and Officers**

The Lord Mayor acts as Chairman of the Council. In this capacity the Lord Mayor is entitled to receive briefings from officers on matters relating to the conduct of Council Meetings.

## **3. Relationship between Leader and other Members of Cabinet and Officers**

The Leader of the Council, as Chairman and a member of the Cabinet, has the power to appoint up to nine other members of the Cabinet. As such the Leader has a special responsibility at the centre of the Council. Other members of the Cabinet will need to recognise this when taking decisions within their respective portfolios in terms of keeping the Leader informed. The Deputy Leader has the responsibility of exercising the functions of the Leader in the absence or unavailability of the Leader.

Officers will need to be conscious of the respective roles played by the Leader and individual Members of the Cabinet. These Members will require additional briefing on areas within their respective portfolios. It will be the responsibility of the relevant Chief Officer to ensure that this takes place. Officers and Members must be aware at all times that Cabinet Members are unable to take individual decisions without having first considered an Officer report.

## **4. Relationship between Chairmen and Members of Policy and Scrutiny Committees and Officers**

The Chairmen and Members' of Policy and Scrutiny Committees have powers to call in decisions taken, prior to implementation, in accordance with the procedures set out in the constitution.

The Chairmen and Members of Policy and Scrutiny Committees have a role in helping to ensure that Council services are provided in accordance with agreed policies. They can also require that reports relating to their areas of responsibility (as set out in the Terms of Reference) be submitted to assist them in their overview role. They can, however, only require this when acting collectively as a Committee.

Officers have a duty to ensure that Chairmen of Policy and Scrutiny Committees receive sufficient information to enable them to conduct their roles in respect of both overview and scrutiny.

## **5. Role of Chairmen generally, including relationship with Officers**

The Constitution gives Committee Chairmen certain responsibilities over the control and conduct meetings. Other than this, Chairmen are in the same constitutional position as all other members. The position of Chairmen as the spokesman for their Party on certain issues is informal, but reflects the reality that it would not be practical for Chief Officers to deal with whole committees, or all sixty Members, individually on a day to day basis. However, Chairmen have no executive role or powers to make decisions relating to the discharge of Council functions. The power to make such decisions remains with the Council, the Cabinet, the relevant Cabinet Member, committee or Chief Officer in accordance with agreed terms of reference and the scheme of delegation.

## **6. Officer Relationships with Party Groups**

Meetings of Party Groups are essentially political forums, and as such, not normally attended by Officers.

Officers may attend these meetings to provide briefings only with the express permission of the Chief Executive. Where this is agreed in respect of one party group, a similar briefing should be offered to all the Political Groups on the Council.

## **7. Members in their Ward role and Officers**

Members of the Council will, of course, take a special interest in matters in their ward. Procedures for Ward Member Consultation procedures are set out in the Guidance for Members Section of the Code of Governance and provide for Members to be consulted on all reports which affect their wards and have the right to have their comments included in such reports.

## **8. Deputy Cabinet Members and Lead Members**

Deputy Cabinet Members are appointed by the Leader of the Council. Their role is a non decision making one – they are appointed to assist Cabinet Members with their workload and provide support for the Council’s approach on issues falling within Cabinet Members’ areas of responsibility (approval of policy remains the responsibility of the Cabinet or Council in accordance with the Constitution). Lead Members are also appointed by the Leader who determines their terms of reference. They are also non-decision making but may act as spokespersons provided any views expressed are consistent with approved policy. The Leader has also appointed Specialist Lead Members who report directly to him on their areas of responsibility. These “Specialist” Lead Members are consulted on reports being prepared for Cabinet, Individual Cabinet Members, Policy and Scrutiny Committees and other Committees where relevant. Further details can be obtained from Mick Steward, Head of Council, Cabinet and Committee Secretariat on extension 3134.



## **SECTION 5**

This section deals with:-

1. Officer Support for Members, including:-
  - Cabinet Support
  - Cabinet, Committee and Scrutiny Secretariat
  - Corporate Management Board (CMB) Ward Champions
  - Neighbourhoods and Engagement Team
  - Scrutiny Research Analyst
  - The Leader of the Opposition's Secretary
  - Support to the Lord Mayor of Westminster
  - Handling the Media
  - Attendance at Meetings Generally
  - Handling Correspondence
  - Briefings
  - Handling Complaints by Telephone
  - Mayor of London/Greater London Authority
  - Local Government Associations
  - Inward Visits
2. Code of Conduct for Councillors
3. Appointments to Outside Bodies
4. Foreign and Other Visits by Members and Officers, including:-
  - Visitors to Westminster
  - Visits from Westminster
  - Criteria for accepting invitations
  - Procedure
  - Officers

### **Officer Support for Members**

#### **Cabinet Support**

The officer support provided for the Leader of the Council and Cabinet Members recognises these individual Member's heavy workload in terms of meetings and correspondence, and the need to be up to date and fully briefed on a range of issues - both corporate and those directly affecting their portfolios.

The role of Cabinet Support is to provide the Leader of the Council and Cabinet Members with a comprehensive research and support service. The team:

- a) Oversee the quality control of all work undertaken/produced for Cabinet Members.
- b) Ensure they are aware of relevant Council-wide strategic and operational issues.
- c) Monitor the progress and implementation of policy initiatives of interest to Cabinet Members.
- d) Commission and co-ordinate high quality briefings, providing research input where necessary.
- e) Provide Cabinet Members with a high quality research and support service.
- f) Provide a “signposting” service between Cabinet Members and Chief/Senior Officers.
- g) Liaise with the Press Office and Cabinet Members on media issues, including drafting and obtaining comments on press releases and statements; assist with the management of media events and photo-calls, providing briefing or ensuring it is provided as necessary.
- h) Manage Cabinet Members’ Ward and casework.

### **Committee and Governance Services**

The team is responsible for the convening and servicing of all formal Member level meetings and recording and disseminating the decisions taken.

### **Scrutiny Research Analysts**

The Scrutiny Research Analysts are a dedicated resource for the Policy and Scrutiny Committees and are responsible for commissioning and undertaking research as part of an agreed programme of scrutiny investigations.

### **The Leader of the Opposition’s Executive Assistant**

The Leader of the Opposition’s EA provides the Leader of the Opposition with comprehensive secretarial and administrative support.

### **Support to the Lord Mayor of Westminster**

- a) provide the Lord Mayor with a comprehensive secretarial and support service; and to
- b) ensure engagements and functions are organised effectively, with due protocol, and that the Lord Mayor is fully briefed.

The support provided takes account of the large number and diversity of ceremonial engagements the Lord Mayor takes part in on behalf of the Council and citizens of Westminster.

### **Handling the Media**

Most media enquiries are made to the Press Office. However, it is inevitable that some will be made direct to staff in Cabinet Support and other parts of the Council. These should always be referred to a Media Officer to log and take forward. If, for any reason, a Media Officer is not available and the enquiry is urgent, details should be taken of the name of the reporter/journalist, paper/TV programme/radio station they represent; object of the enquiry; telephone number; deadline and then passed to the relevant Member. The Press Office will also be informed as soon as possible.

The Press Office will arrange for press releases to be cleared by the relevant Department(s), and press statements agreed with Members via their support staff. Officers in Cabinet Support do not draft press releases or press statements, or provide quotes from Members. The protocol regarding Press Releases and Policy and Scrutiny Committees can be found in the Council's constitution.

### **Attendance at Meetings Generally**

Cabinet Support staff will attend meetings with Cabinet Members and Officers on policy and operational issues. They may be asked to take notes as appropriate and ensure that follow-up action is taken.

### **Handling Correspondence**

All correspondence addressed to the Leader of the Council, Leader of the Opposition, Cabinet Members and Lord Mayor will be referred to the relevant support staff.

Individual Members may wish for their correspondence to be handled in a particular way but, in general terms:

- all letters are appropriately logged, acknowledged and their progress monitored.
- those seeking information or complaining about operational service provision are referred to the appropriate Department to answer direct, with a request that a copy of the response be sent to the appropriate Member.
- those dealing with policy issues or are from 'VIPs' - including, for example, Members of Parliament, are referred to the appropriate Department for comment or draft response for Member's signature.
- copies of signed letters on policy issues, or for which a draft had been supplied, will then be sent to the appropriate Department.

## **Briefings**

Support staff will request briefings on behalf of the Leader, Cabinet Members and Committee Chairmen on all aspects of the Council's work - including policy issues, operational service related matters, events and procedures.

However, it is expected that all other Members will go directly to Chief Officers, or other relevant staff in Departments, on most policy related issues.

## **Handling Complaints by Telephone**

Callers with complaints about operational service provision (or simply seeking information about a Council service or procedure) will be strongly encouraged to be transferred to the relevant Department (or the caller's details requested so that the Department can ring back). Where the complaint is policy-related, or from a 'VIP', details will be taken and the appropriate Department contacted to provide comment or briefing in order for the relevant Member to respond - either by phone or in writing.

## **Mayor of London/Greater London Authority**

The Head of Members Support is responsible for leading and co-ordinating the Council's communication and relationship with the Mayor of London/GLA, ensuring Members and Chief Officers are briefed on relevant issues and co-ordinating the work of the GLA officers' group.

## **Local Government Associations**

Members Support has responsibility for the distribution of documents from Associations such London Councils and LGA and for the co-ordination of any briefing required by Leading Members for their meetings.

## **Inward Visits**

Staff in Cabinet Support organise and support the many inward visits by foreign and other delegations by arranging speakers, background material, presentations, etc.

## **Code of Conduct for Members**

The Code sets out rules of conduct which Members and co-opted members of local authorities will be required to comply with when carrying out their duties.

Further information about the provisions of the Code can be found in the Guidance for Members' Section of the Code of Governance.

## **Protection from Personal Liability**

As a matter of policy the City Council has decided, subject to various exceptions, to indemnify all Councillors or employees of the Council against any damages or costs or legal expenses which they may be ordered to pay or may have reasonably incurred,

arising from activities carried out on behalf of the City Council. The form of the indemnity is set out on the following page.

This indemnity will apply to the activities of Councillors or employees carried out on behalf of the City Council itself and, in certain circumstances, will also apply to activities on outside bodies, where the Member or Officer concerned is acting as a representative of the City Council on that outside body or where, for example, the City Council is required or empowered to appoint Members to the body in question by statute. However, it should be noted that the indemnity will not apply in respect of all appointments the City Council makes in respect of outside bodies. In many cases the appointee or nominee, is not representing the City Council as such and the indemnity will not apply.

## **Indemnity**

The City Council will, subject to the exceptions below, indemnify all Councillors or employees of the Council against any damages, costs or legal expenses which any such Councillor or employee may be ordered to pay or may reasonably have incurred arising from activities carried out on behalf of the Council if the Councillor or employee acted in good faith and honestly believed that the act complained of was within his/her power and that his/her duty as a Councillor or employee required or entitled him/her to do or omit to do it. Such indemnity shall apply to any liability incurred by any Councillor or employee as the City Council's representative on an outside body and to any employee who in connection with his/her employment with the City Council provides an administrative, technical, professional or other service to any person or body outside the City Council.

For avoidance of doubt this indemnity will apply to existing and former Councillors and employees in respect of acts and omissions whilst they were Councillors or employees.

Except as mentioned above the City Council will not itself make any claim against any Councillor or employee for any loss or damage occasioned by any neglect, act, error or omission committed by an individual arising from the pursuit of his/her duties on behalf of the City Council whilst acting within the scope of his/her authority.

### **Exceptions:**

(1) This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- (a) Fraud, dishonesty or any criminal offence on the part of a Councillor or employee (except where the criminal offence is an offence under the provisions of the Health & Safety at Work Act 1974 or relevant statutory provisions within the meaning of that Act in which case the indemnity will continue to apply.
- (b) Any neglect, error or omission by an individual otherwise than in the course of his/her duty
- (c) Activities which are "ultra vires" i.e outside the legal powers of the City Council, save to the extent that at the time of the activity concerned the individual bona fide and reasonably believed that the activity was intra vires, i.e. within the legal powers of the City Council
- (d) Liability in respect of any surcharge and Sections 17 and 18 of the Audit Commission Act 1998. Provided that where upon final determination of an objection to the Auditor the Council is satisfied that a person the subject of an objection was not blameworthy it will meet the legal costs reasonably incurred by such a person in connection with such objection.

(2) This indemnity will not apply if a Councillor or employee without the written authority of the Director of Legal and Administrative Services admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution.

(3) This indemnity will not apply where a Councillor or employee has been appointed to and is acting in the capacity of:

- (a) a director on a board of directors of a company; or
- (b) a trustee of a trust
- (c) a voting member of a management committee of another outside body

## Appointments to Outside Bodies

Members are appointed to represent the Council on the various committees and panels of the Local Authority Associations: London Councils and the Local Government Association. Officers will upon request prepare briefings for any Member attending such meetings. If you have any queries about the Local Authority Associations please contact Members Support.

Members will also from time to time be appointed or nominated to outside bodies by the City Council. Such bodies may, for example, be a London wide body or a local voluntary body. If appointed as a Director, Trustee or Member of the Management Committee, Members need to take particular care, as they could face personal liabilities if they fail to discharge their responsibilities properly.

As mentioned above some protection from personal liability may be available either under the City Council's indemnity or alternatively through insurance. If you have any queries please contact the Head of Legal Services for advice.

Members or Officers appointed to those bodies to which the City Council makes appointments and where the appointees may be regarded as representing the City Council will be covered by the City Council's indemnity **unless** they occupy the position of a Director, Trustee or voting member of the Management Committee where the organisation is an unincorporated organisation. The indemnity will **not** apply where Members or Officers are appointed to such positions and whilst they are acting in that capacity.

**However**, where the City Council nominates Members to serve on outside bodies (**whether or not as a Director, Trustee or voting member of the Management Committee**) the individual member concerned should satisfy themselves as to the insurance cover available from the organisation is question. Further guidance will be issued shortly.

## Foreign and other Visits by Members and Officers

Due to its location and scale of service responsibilities the City Council attracts several requests for visits each year from representatives of local governments and related organisations world-wide. The former Policy and Resources Committee agreed a strategy for International Visits in June 1997. The strategy provides a structured approach to ensure maximum benefit is obtained and that requests for visits that do not support agreed priorities can be refused. The procedures are detailed below. Separate arrangements apply to the Lord Mayor's Office.

### Visitors to Westminster

The relevance of all requests is assessed by the Director of Communications and Strategy in accordance with the International Visits and Exchange strategy agreed by the Policy and Resources Committee on 30 June 1997. The current aims of engaging in international exchanges are:

- 1) To encourage exchange between countries with inward investment potential
- 2) To maximise external funding opportunities through trans-national partnership.
- 3) To maintain Westminster's competitive edge and assist professional exchange.
- 4) To develop commercial arrangements in support of the strategy.

Visits will usually take the following form:

- (i) Brief meetings/discussions of up to a maximum of two hours (possibly involving site visits), negotiated between the Members/officers concerned.
- (ii) Half day presentations/seminars, often against an agreed fee
- (iii) Longer-term visits or traineeships (normally between 1-2 months) for foreign local government employees, which are sanctioned by the relevant Chief Officer prior to acceptance.

### **Visits from Westminster**

In addition to dedicating time to the above aims, Members and officers are occasionally invited abroad at the invitation of foreign governments and other bodies. These invitations normally fall into three discrete categories:-

- (a) where there is no cost involved to the Council as the host country or other organisation is funding the visit (other than the 'time' cost for the officer's absence from work).
- (b) where there is a cost to the Council that can be met from within the estimates for the Department for whom the officer concerned works.
- (c) where there is a cost to the Council requiring supplementary funding arrangements because it cannot be contained within approved estimates.

### **Criteria for accepting invitations**

Invitations may be extended by a host country on the basis of our expertise or as a vehicle for exchange and mutual benefit. In addition, Members may occasionally need to travel abroad in progressing particular corporate goals.

Examples of circumstances in which acceptance should be considered are where:-

- The offer is made by a suitable organisation in a professional capacity only.
- The Invitee, the City Council and its residents are likely to benefit from the exchange of experience and additional knowledge gained from the visit.
- As an Ambassador for the City Council and its achievements, the Invitee is promoting the goals and aims outlined above.



## Procedure

Overseas visits by Members and officers are subject to endorsement in the following way. Please note that this procedure only refers to Members travelling as representatives of the City Council and not in their private or professional capacity.

### Members:

**Category (A)** Insofar as there is a 'time' cost only: Approval to be obtained from the Leader of the relevant Political Group and the Chief Executive, the Monitoring Officer and the City Treasurer to be informed prior to departure.

**Category (B)** Insofar as there is a cost to the Council, albeit containable within existing estimates, there should be a 'financial check' and, therefore approval to be obtained by means of a report by any relevant Chief Officer and the Chief Executive and the City Treasurer to the Leader of the Council. Approval by this means must be obtained prior to departure.

**Category (C)** - Insofar as there is a cost to the Council that will require supplementary funding (even though this may be within the £10,000 contingency drawdown powers available to the City Treasurer), the following should apply:- Approval to be obtained by means of a report by any relevant Chief Officer and the Chief Executive and the City Treasurer to the Leader, the relevant Cabinet Member and the Cabinet Member for Finance. Approval must be obtained prior to departure.

### Officers

**Category (A)** - Where there is a 'time' cost only: Approval *to be obtained from* the relevant SEB Member (both the Leader and the Leader of the Opposition to be advised prior to departure).

**Category (B)** - Where there is a cost to the Council, which will be met from existing budgets: Approval to be obtained by means of a report by the relevant SEB Member and the Chief Executive and City Treasurer to the Leader of the Council. Approval by this means must be obtained prior to departure.

**Category (C)** - Where there is a cost to the Council that will require supplementary funding (even though this may be within the £10,000 contingency drawdown powers available to the Chief Executive and the City Treasurer), the following should apply: Approval to be obtained by means of a report by any relevant SEB Member and the Chief Executive and the City Treasurer to the Leader of the Council, the relevant Cabinet Member and the Cabinet Member for Finance. Approval must be obtained prior to departure.

**Category (D)** - The relevant EMT Member can approve visits where the following criteria are met:

1. the purpose is to visit the European Commission or to European Union agencies or institutions in Europe or to undertake joint work within Europe with existing or potential partners
2. the cost to the Council will be met from existing budgets

The Chief Executive should be kept informed of any foreign visits planned by Members or officers of the City Council under these procedures and may require that they be treated as for category (C), if, for any reason, he deems it appropriate.

Progress reports of both incoming and outgoing visits will be circulated, where necessary, to the Leader and/or Cabinet.

## **SECTION 6 THE PROCESS OF DECISION MAKING**

All decisions of the Council, (whether they be by the full Council, Cabinet or individual Cabinet Member) except those which have been delegated to officers, must be taken following receipt of a report from the appropriate Chief Officer. The law requires reports for Cabinet or Council to be despatched at least five clear days before the meeting. The practice at Westminster, however, is for the agenda for Council and Cabinet meetings to be despatched 10 days before the meeting. In respect of action to be taken by individual Cabinet Members, approval of reports which are open to the public cannot be given until they have been notified/listed in public for five clear days other than in cases of urgency.

All reports must contain all the necessary detail to enable Members' to make a decision. They will, in most cases, include recommendations based on the officers' professional judgement and existing Council policy. Reports in relation to executive functions will also contain a paragraph setting out reasons why a course of action is being recommended. This will be included in the formal record of the decision along with any other options considered and rejected, and the reasons why.

Officers have been given clear guidelines on the information which must be included in reports. These instructions are set out in the Best Practice Guide to Report Writing in Westminster, a copy of which can be obtained from the Committee and Governance Team or is available by contacting Sarah Craddock on 7641 2770.

### **Information Reports**

Where no decision on a report is necessary (ie where the report is for noting only) it may be circulated to Member(s) of Cabinet/Cabinet Member/the relevant Committee in the form of a briefing note. A decision as to whether a matter can be dealt with in this way rests with the appropriate Chief Officer.

### **Callover Processes (Policy and Scrutiny Committees, General Purposes Committee and Audit and Performance Committee)**

For reports scheduled for submission to one of the above, there may be three stages which they have to go through:-

- **Officers' Callover** - chaired by the Controlling Officer (the relevant Senior Committee and Governance Officer), where reports are considered in draft by Officers to ensure that:
  - a corporate approach has been taken by departments in the preparation of reports
  - legal formalities have been complied with
  - reports are in line with corporate priorities as outlined in the Performance Plan and are included in the work programme.
  - reports have properly taken into account the City Council's procedures
  - reports are in the proper format and in plain English

- reports conform to the Council's Budget and Policy framework or reflect the requirements to obtain Council approval if this is not the case.

Where an Officer Callover is not held the relevant Senior Committee and Governance Officer will be able to advise on the formal clearance process.

- **Chairman's Callover** - is held to enable the Chief Officer to brief the Chairman on the issues to be reported and to consult him/her on the content of the report. All reports on the agenda are ultimately the responsibility of the relevant Chief Officer and while the Chairman is consulted on the draft reports s/he has no power to alter them.
- **The meeting itself** – the third stage is the formal meeting itself. The agenda for the Cabinet/Committee meeting will normally be despatched 10 days before the meeting date (but not less than 5 clear working days) to give Members sufficient time to consider the issues and collect any background information they may additionally require. A note to Members is included on the Cabinet/Committee agenda reminding them that they are able to contact report authors in advance of the meeting to raise any questions they may have. It is important that reporting Officers are aware of this so they can prepare for any such calls.

### **Individual Cabinet Member Reports**

There are no formal callovers for this process. Most Chief Officers have arrangements whereby they hold regular informal briefing meetings with their individual Cabinet Members to discuss forthcoming reports and to seek an indication from the Cabinet Member as to whether s/he considers the report should be referred to the Leader and Deputy Leader for consultation.

Further details of Westminster's process, the relevant meeting, callover and agenda despatch dates can be obtained from the Head of Committee and Governance Services on extension 3160.

For guidance on report writing, please refer to the report writing guide on the Wire.

Staff in the Committee and Governance Services team have authority to return reports to report authors if they are incomplete or do not conform with the Council's Report Writing Guide.

## **SECTION 7      WHEN THINGS GO WRONG**

### **Corporate Complaints Procedure**

Although the Council aims to provide quality services that meet its customers needs at all times, it is inevitable that it will not always get it right first time. It is important that the Council admits its mistakes and does all it can to put things right. All complaints must be treated seriously. Complaints may be made by letter, telephone, fax, in person or by e-mail.

The Council has a three stage corporate complaint procedure.

**Stage One:** when a complaint is initially received, it is directed to the staff with the in-depth knowledge of the relevant service. These are the staff most able to deal with the complaint effectively.

**Stage Two:** If the complainant is still not satisfied an Officer from the Corporate Complaints Team of the Chief Executive's department will review the complaint on behalf of the Chief Executive.

Information about complaints received is used both by departments and corporately to identify and address problem areas and improve service delivery. Information about complaints is also submitted to the Audit and Performance Committee for monitoring by Members.

### **The Local Government Ombudsman**

The Commission for Local Administration in England (commonly known as the Ombudsman) was set up by the Local Government Act 1974 for the investigation of complaints by members of the public about maladministration in local government. The procedure enables complainants to appeal to an external body if they are not happy with the way the Council has treated their complaint. The Ombudsman is restricted to investigating complaints about maladministration in local government.

Maladministration is not defined in the Act and it is left to the individual Ombudsman to decide whether it has occurred. Maladministration refers to the manner in which an authority's decision has been taken not the merits of the decision itself. Such factors as neglect, bias, unfairness, incompetence, excess delay or the use of faulty systems for handling cases could be regarded as elements for maladministration.

If the complainant or a Member, in consultation with the complainant, is unhappy with the explanation of events and remedial action offered by the Council they may refer it to the Ombudsman. A complaint can be referred to the Local Government Ombudsman at any time but he would usually refer it back to the Council's own complaints procedure if he considers we have not yet have had a reasonable opportunity to deal with the matter. If this is not evident on the complaint and will then decide whether or not to investigate the complaint further.

If the complaint is investigated the Corporate Complaints Unit in the Policy and Performance department (extension 8013) co-ordinates the submission of the

Council's evidence to the Ombudsman and they make the necessary arrangements for provision of the information required including the inspection of files and holding interviews if necessary.

When the Ombudsman has completed his investigation he will make a decision if there has been any maladministration or he wants to discontinue the investigation because action has agreed by the Council and accepted by the Ombudsman as a satisfactory outcome to the complaint. This is known as a local settlement. If he decided that there has been maladministration he will prepare a report on the complaint. Such a report will either find maladministration with injustice or maladministration finding no injustice to the complainant. The fact that this report has been issued is published in the local press and the report itself made available for public inspection. Copies of the Ombudsman's final report are sent to the Leader of the Council, the Leader of the Opposition and the relevant Cabinet Member. The procedure for dealing with reports will vary depending on whether or not maladministration with or without injustice has been found as follows:

- a. Reports with a finding of maladministration (with or without injustice). These are submitted by the relevant Chief Officer to the relevant Cabinet Member or General Purposes Committee, as well as the appropriate Policy and Scrutiny Committee.
- b. Reports without a finding of maladministration. These are simply placed on deposit for public inspection.

In addition to the above, the Monitoring Officer has a statutory duty to report to the Council or Cabinet, as appropriate, on all reports where maladministration is found. In practice this will usually be done after the Chief Officer has prepared his report and this has been considered.

### **What is an "Ex Gratia Payment" and when can they be made?**

In broad terms an "ex gratia" payment is a sum of money paid by the City Council where it maintains that there is no legal obligation to make such a payment (e.g. to compromise potential litigation). This is a complex legal area and this section is only intended to provide an outline of the issues involved. Please contact the Head of Legal Services to discuss the specific circumstances before taking any steps relating to making an ex gratia payment (see below).

Financial Regulations give each Chief Officer the authority to make ex gratia payments providing they do not exceed £2000. However, before making any such payment it is essential that the Chief Officer has established that the City Council has the legal power to do so in the particular circumstances concerned.

The City Council does not have the power to simply make a gift of money to a resident, by way of an ex gratia payment. However, there are circumstances in which an ex gratia payment can be made. Basically, the City Council can make payments only if it has the statutory authority to do so. Please note that all payments must be made in a form that will protect the City Council's position in

any subsequent legal proceedings. This means that any offer or payment must be clearly marked “**without prejudice**” and “**in full and final settlement of any claim.**” In any case where the City Council may be covered by insurance, it is prudent to ensure our insurers have no objection to a payment being made. The circumstances in which payments can be made are outlined below:

1. Where there is **specific statutory power** eg. standard disturbance grants to tenants.
2. To **settle litigation** (or potential litigation) where there is at least a significant risk that if the matter proceeds to court the City Council would be found liable (eg. negligence or in contract) to the Plaintiff. In such circumstances, Local Authorities derive the power to pay such compensation or “ex gratia” payments, from the subsidiary powers in Section 111 of the Local Government Act 1972. This is because such a settlement before court proceedings could be said to facilitate or be conducive or incidental to the discharge of a local authority’s primary statutory functions.

In the absence of a specific power, therefore, it is necessary to establish that there is at least a risk of liability, if compensation or an “ex gratia” payment is to be paid. It is important to realise that something which might conceivably be described as maladministration, eg delay, would not of itself necessarily lead to liability in, for example, negligence. There have been a number of significant recent cases in this area.

3. Where it is considered that action taken by the Council in the exercise of its functions amounts to, or may amount to maladministration and a person has been, or may have been, adversely affected by that action. In these circumstances, under Section 92 of the Local Government Act 2000, the Council may, if it decides it appropriate, make a payment of financial compensation to that person or provide some other benefit/remedy. Guidance on when such remedies can be considered is set out in the Corporate guidance on remedies for complainant’s and the payment of financial compensation. A copy of this guidance note can be obtained from the Corporate Complaints team (extension 8013) in City Hall).
4. Where, in the context of a **Charter**, a “**charter**” **payment** is appropriate. Counsel’s advice has been obtained on payments in such circumstances and subsequently discussed by Chief Officers. It is possible to make “charter” payments in certain circumstances but it is a complex area and cautious consideration of the merits of each individual scheme is required. It is essential that any scheme can be linked directly to the efficiency of the service in question ie. that making a payment under the scheme is conducive to or facilitates the efficient delivery of the service. There are a number of ways this may be achieved eg by linking PRP or bonus schemes to the level of charter payments made or through the use of trading account principles (so that compensation to the complainant is balanced by a reduction of expenditure elsewhere.) The Director of Law

must be consulted before a charter scheme involving payments is established.

If you require any advice please contact the Director of Law.

### **Complaints About Member Conduct**

Complaints relating to Member conduct are dealt with by the Council's Standards Committee.

The full details of the process are set out on the Council's website at [www.westminster/governance](http://www.westminster.gov.uk/governance).



## SECTION 8      CUSTOMER CARE STANDARDS

Westminster is committed to providing high quality services for its customers. As part of this drive for quality, to ensure consistently high standards of customer service, the Council has established a number of corporate customer care standards.

The minimum standards that all staff should meet are set out below:

(Please note at the time of this update the Council has just purchased a new telephony system which offer much greater flexibility in its use. In order to ensure that our customers gain the same benefits as staff do from the new features of the system we will need to develop a new set of telephone standards. These will be incorporated into the new Westminster Standard

In November 2002 the Council began providing a high proportion of its front line customer contact through a Customer Service Initiative, the CSi. The CSi has significantly improved the quality and accessibility of our service to customers, and it is important to ensure that the rest of the Council aims to deliver the same standard of customer care.

To do this the Council introduced a Customer Charter setting out the level of service it expects to deliver to its customers whether the service is provided directly by Council staff, through the CSi or by other contractors. The service standards in the Charter are similar to those specified in the CSi to meet the *Westminster Standard* level. All sections of the Council have developed an action plan setting out what is required to meet this standard. Members of staff should ensure that they know what are the present standards within their section or department, and that they are familiar with the action plan to achieve the standards in Westminster's Customer Charter.

In the 2008 One City Programme the Council is committed to the delivery of a Westminster Standard which will produce a single standard for service across the whole of Westminster irrespective of provider. This standard is due to be published in Autumn 2008. During the course of the year customers and staff will be consulted on what should be in the standard and all services will be subject to mystery shopping to see the extent to which they are already achieving the standards set out in the charter.

**Answering correspondence** – a full response should be sent within 10 working days using Plain English.

**Answering the telephone** – calls should be answered within 4 rings/10 seconds using a three part announcement. Hello/good morning/afternoon; your name; your service area or department (whichever is more informative for your callers). All telephone numbers published in the A-Z must have a service level set and performance against that SLA must be monitored.

**Use of voicemail/answer machines** – messages should be informative and include: your name; your service area or department; the date; a short message giving your expected date/time of return. This can be expanded according to your work (eg sometimes it is appropriate to say where you are or give another contact number). Voicemail messages should be updated at least daily and any messages left should be responded to on the next working day. There should be no voicemail or answer machines on public numbers between normal opening hours, out of hours messages should contain details of the service's opening hours. If you are off sick someone should update your voicemail and deal with incoming messages.

**Email** – all officers using email should have an automated sign-off which includes: name, service area/department, telephone number, fax number, email address. All emails should be acknowledged by the next working day and, where appropriate, give a timescale for a full reply (this should be no more than 10 working days). Out of office messages should be used for absences of more than one day. If you are likely to get important external e-mails you should arrange for them to be forwarded to someone who can deal with them while you are away.

**Published e-mail addresses** – no personal e-mail addresses should be published as a means of the public making contact with a service as these cannot be effectively monitored. All e-mails set up as a service route for the public must have an automatic acknowledgement, an owner who is separate from the person responding, a generic address and an agreed service level which is monitored by the owner.

**Security Passes/Name Badges** – staff and Members are required to have these clearly showing at all times.

**Complaint handling procedures** – all staff are required to handle complaints in accordance with the corporate procedures.

**Published phone numbers, web and e-mail addresses and faxes** – every year the Council publishes an A-Z of services which is distributed to the public with Council Tax notification. The same information is also used to publish the A to Z of services on the web site and on the WIRE. All this information is held in a database which is owned and updated by the Customer Services Team. No new contact details for the public to use for the first time or routine contact should be set up without first ensuring they are entered in the central database. In this way we ensure that the information to the public is kept up-to-date and correct.

**Guidance for Members**

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## **CODE OF GOVERNANCE**

## **GUIDANCE FOR MEMBERS**

## **General Information**

This section gives information on the following:-

- Introduction
- Finding your way round the organisation
- Emergency/Out of hours contacts
- Procedures in the event of an emergency
- Visits by Members to Council premises

### **Introduction**

This section of the Code of Governance is aimed primarily at Members. It is intended to assist Members in their work at Westminster. It provides greater details of some of the issues covered in the first general section of the Code and other issues which are particularly relevant to Members. If you have any queries or questions about matters in this section please contact either the Chief Executive or the officers/extensions numbers referred to within specific sections.

### **The Members' Information Portal**

The Members' Information Portal is a means through which Westminster City Council members can access and use information applicable to their needs. Councillors are able to access 'Ward' specific information including Calendar events taking place, Ward Profiles and general information relating to a wide range of subjects. The website also incorporates elements of the council's own website along with partner websites.'

<http://partnerweb/members/default.org>

This website can be accessed via any Council computer or via external remote access. For details on how to access this site remotely, from a home PC or laptop, please contact Janis Best on 7641 3255.

### **Westminster City Council Management and Departmental Structure – Finding Your Way Round the Organisation**

Understanding how a complex organisation like Westminster is structured can seem rather a complicated process. However, there is a logic to the organisation and help is at hand from staff in Member Services on extension 3255 to assist all Members – and particularly new Members – to ensure they are able to contact the appropriate department(s)/Officer(s) to obtain information. Members will, of course, build up their own network of contacts over a period of time, which will doubtless prove invaluable. Alphabetical listing of Officer names, with telephone extension numbers, are contained in the public folders on the exchange system and 'hard' copy of the up to date internal telephone directory can be obtained from Janis Best on 7641 3255.

Further information on facilities available to Members is included later on in this guide, with appropriate contact points.

A structure chart setting out the management and Departmental structure is contained on the Members' Website. Individual Chief Officers will be able to provide further information on the breakdown of their department on request. Useful telephone numbers can also be found in the A-Z of Services and in the Members' Handbook.

### **Emergency Contacts**

During office hours Members can contact individual officers in departments direct to deal with problems and emergencies.

### **VIP Number**

To help Members contact Council officers and be transferred as quickly and efficiently as possible, a dedicated enquiry line is available on **0207 641 6060**. By ringing this number, Members will be transferred immediately to the officer or service area they require. Customer Service staff will also be able to assist with general enquiries if required.

If it is out of hours and you cannot find a relevant specific contact number, a "Duty Officer" system is operated by the Facilities Manager-. Emergency calls should be made to City Hall (020 7641 – 6000). An Auto Attendant facility will give you an opportunity to speak to somebody in connection with general noise, cleansing or housing issues. Alternatively you can speak to an Emergency Duty Officer who will be able to provide assistance on a wider range of issues.

### **How would the Council respond to an emergency in the City?**

In the event of a major accident or natural disaster occurring within the City of Westminster and causing death, injury or disruption to normal life on a large scale, the City Council would implement an emergency plan, the aim of which is to mobilise and co-ordinate the resources and services of the City Council, in order to fulfil two objectives – to provide assistance and support to the emergency services, and welfare and help to people affected by the major incident.

The emergency plan provides guidelines for Chief Officers and managers called upon to organise and co-ordinate a corporate response to a major disaster. A requirement of the plan is the corporate management of the response under the direction of the Chief Executive from an emergency control centre in City Hall, or alternatively at Lisson Grove.

The plan would be implemented following receipt of information from the police. The duty officer or telephonist receiving the information would notify the emergency planning officer who, after assessing the situation, would implement the plan and inform the Chief Executive.

In the event of any queries or further information required, please contact the City Coordination Manager on telephone 7641 7092.

### **Visits by Members to the Council's Premises – Right of Access**

Premises of the Council are controlled by the Chief Officer of the department by which the premises are provided. Members of the Cabinet and Chairmen and Vice Chairmen of Committees/Sub-Committees have a right of access at any time to any premises which fall within their particular terms of reference. The Leader of the Council and the Leader of the Opposition have a right of access to Council premises at any time. Visits by other Members to establishments are controlled by the body managing the establishment. No instruction may be given by any Member when visiting premises. Concerns/requests for specific action should be addressed to the appropriate Chief Officer on the Member's return.



## **SECTION 1 PROCEDURES – COUNCIL AND CABINET, COMMITTEE AND SUB-COMMITTEE MEETINGS**

This section gives information on the following:-

- Procedures at Council meetings including Council questions (questions asked at the Council meeting, written and urgent questions)
- Petitions
- Refreshments at Council, Cabinet and Committee meetings
- The Cabinet and Committee process
- Cabinet and Committee reports and the ward member consultation process

### **Procedures**

#### ***Council Meetings***

The General Section of the Code of Governance sets out the way in which the Council is structured in terms of the role of the Council, the Cabinet, individual Cabinet Members and Committees. Further details of the above can also be found in the Constitution.

Council Meetings are scheduled approximately 6 times a year. Details of the business to be transacted at Annual, Ordinary and Extraordinary meetings of the Council are set out in the Constitution.

A summary of the procedures followed at full Council meetings is contained in the Members' Induction Pack or available from Reuben Segal, ext 3160.

#### **Refreshments provided at Council, Cabinet and Committee meetings**

Prior to full Council meetings a meal is provided for Council Members free of charge from 6pm before each meeting. Meals are available for Members' guests at a cost of £10 per head. Members wishing to order meals for their guests must notify the Head of Committee and Governance Services on extension 3160 at least 48 hours before the meeting. No food is allowed in the Council meeting.

A varied range of sandwiches (vegetarian and non-vegetarian) are provided at Cabinet/Committee meetings. Members who have specific dietary requirements should inform the Head of Committee and Governance Services (extension 3160) at the earliest possible opportunity to enable appropriate catering arrangements to be made.

#### **Cabinet, Committee and Sub-Committee Meetings**

The terms of reference of the Cabinet, individual Committees and Sub-Committees are set out in the Constitution.

A Member of the Council is entitled to attend a meeting of the Cabinet, a Committee or Sub-Committee of which he is not a member, except the following, once the press and public have been excluded:-

- Staff Appeals Sub-Committee
- Education Awards Appeals Sub-Committee
- Licensing Sub-Committees
- Rating Panel
- Appointments Sub-Committee
- Standards Committee and its Sub-Committees

Any Member who wishes to remain at a meeting of one of the above, when the press and public have been excluded, must seek the agreement of the Director of Law by no later than 12 noon on the day before the meeting setting out the reasons for wishing to attend. The Director of Law will then, in consultation with the relevant Chairman, decide whether the Member concerned should be permitted to attend the meeting on a 'need to know' basis. Any Member (other than the Leader and Leader of the Opposition) attending a meeting of the Cabinet, a Committee or Sub-Committee who is not a Member of that body may not speak except with the consent of the Leader (in the case of Cabinet Meetings) or the appropriate Chairman (in the case of other meetings). A 'visiting' Member should always indicate to the Leader/Chairman before the start of the meeting the agenda item(s) on which they wish to speak.

### **The Cabinet and Committee Process**

Section 1 of the General Information section of the Code explains the role of:-

- The Council
- The Cabinet (or Executive)
- Committees and Sub-Committees

The meetings are by law open to the press and public unless it is decided that there is good reason to exclude them. Agenda will, if necessary, be prepared in two parts to reflect the business to be carried out in public and which is exempt from public disclosure and, therefore, confidential (i.e. items for which the public may not attend).

Senior Officers will be present at meetings to give any further information on reports and answer Members' questions.

When reaching a view on a matter for decision Members should only have regard to relevant considerations and disregard all irrelevant ones. All relevant considerations will be clearly set out in the officers' report (with a concluding paragraph explaining the reasons why they are recommending the course of action set out in the report).

Further information as to how reports are prepared by officers, the style in which reports are written and the matters which are taken into consideration when a

report is being prepared are set out in the Council's Best Practice Guide to Report Writing. Copies of the Guide can be obtained from the Committee and Governance team.

### **Procedures for Consulting Ward Members on Reports**

Chief Officers must ensure that Ward Members are consulted on any initiative that particularly affects their ward which is to be reported to Cabinet/individual Cabinet Member(s)/Committee/Sub Committee/Urgency Sub-Committees and a summary of their comments must be included in the report. They must if possible be given 7 days to respond.

For urgent reports normal rules for consulting Ward Members should apply, although because meetings are convened at short notice there may be less time for the consultation process than is the case with items for scheduled meetings.

Where the initiative particularly affects a number of wards, the Members for all the affected wards must be consulted. If an initiative has some dimensions which are ward specific, and others which are general, the relevant ward Members must be consulted on the matters which will affect their ward.

Where it is not straightforward, eg: the initiative is near to a ward boundary, the appropriate Chief Officer will need to determine which wards are particularly affected. Where the proposals set out in a report are not considered to have ward implications eg a policy change or budget strategy no specific consultation with Ward Members is necessary.

### **Timing of consultation**

Ward Members should usually be consulted, at the latest, immediately after officer clearance of the report. However, the timing is at the discretion of the Chief Officer and the consultation may take place before if the issue is straightforward. This timing will ensure Ward Members' and officers' time is not wasted discussing matters which are unlikely to proceed but ensures Ward Member views can be considered by officers before the report is finalised. It is important that Ward Members are kept informed of any major changes which occur after they have been consulted so their comments relate to the final proposals.

### ***Paperwork***

Ward Members will not be supplied with draft reports as they are being consulted on the proposed initiative rather than how it is to be presented. However, Ward Members must be provided with sufficient information to enable them to comment on the issue/initiative and the appropriate information will therefore be provided as a briefing paper which may be supplemented verbally or as part of a site visit.

### ***Making Cabinet Members aware of the consultation***

The relevant Cabinet Member will be advised of the intention to consult on the initiative before consultation is started and be sent a copy of the briefing paper at the same time as it is sent to Ward Member. This will ensure that the Cabinet Member is aware of the issue if the Ward Member chooses to lobby about it.

### **Contracts**

If a contract relates to a particular ward(s) the Ward Member will be consulted about all aspects except the award of the contract. There may be exceptional circumstances in which, because of a local dimension to a contract, it would be appropriate to consult Ward Members on the award of the contract.

### ***Ward specific issues not requiring consultation***

Ward Members will not be consulted about issues which relate to specific individuals. However, this guideline does not apply where the Ward Member is acting on behalf of a constituent.

### ***Confidential Issues***

These guidelines will also apply to issues which are to be reported in the confidential section of the agenda but will be subject to the same restrictions. The confidential nature of the issue will be highlighted to Members by the appropriate Chief Officer when they are consulted.

### ***Members' Comments***

To avoid misunderstanding, other than simple agreement to a proposal, Members' comments must be made to officers in writing. As all reports submitted to Cabinet/Individual Cabinet Members/Committees or Sub-Committees are the responsibility of the relevant Chief Officer(s) they must not be drafted/amended by Members. The Ward Members' views must be fairly represented. If the Ward Members have no comments that will also be reflected in the report. Any comments made must be directly related to the issue under consideration. A suitable form of wording is:

"Ward Members have been consulted and the following comments have been received:"

This requirement applies to licensing and planning application reports.

### ***Background papers***

Written responses from Ward Members will become background papers to the final report and listed as such on the report.

### ***Final Report***

Ward Members will be sent a copy of the final report by the Cabinet and Committee Secretariat.

### **Lead Member Consultation**

Lead Member(s) should be consulted by the relevant Chief Officer on draft report(s) which fall within their remit. The report should include reference to the Lead Member being consulted and their views should be incorporated into the report.

## SECTION 2 CODE OF CONDUCT FOR MEMBERS

This section gives information on the following:

- Code of Conduct for Members
- Role of the Standards Board
- Register of Interests
- Declaration of Interest
- Accepting Gifts and Hospitality

### Code of Conduct for Members

All Members of the City Council are bound by the provisions of the Code. If any member fails to sign the Declaration of Acceptance of Office within 2 months of being elected, then they will cease to be a member of the Council.

Members who require any advice regarding provisions of the Code should contact the Director of Law (Head of Committee and Governance Services on extension 3160).

Copies of the Code are available from Reuben Segal on extension 3160. A copy of the Code is included in the Constitution. Members of the public have the right to inspect the Code. It can also be accessed at [www.westminster.gov.uk](http://www.westminster.gov.uk)

The Director of Law now has a duty to consider complaints made about Member Conduct. More details and a complaint form on which to make a complaint can be found at [www.westminster.gov.uk](http://www.westminster.gov.uk)

### 1. Registering and Declaring Membership of Political Party Councillor Associations

Following an enquiry from the Conservative Party about membership of the Conservative Councillors' Association, the Standards Board have clarified that membership of councillor associations should be registered with the authority under paragraph [now 8 (11 (a) (ii) (cc))] of the Code of Conduct.

The Code of Conduct requires the registering of membership of bodies "whose principal purposes include the influence of public opinion or policy". Political Party Councillor Associations fall under this requirement and membership of such Associations therefore needs to be registered."

**Members should notify any changes to their declaration on the register within 28 days to Reuben Segal, Council, Cabinet and Committee Secretariat on extension 3160. Failure to do so will be a breach of the Code of Conduct.**

### Declarations of interest

Alongside the register of interests, the Code also requires the declaration of interests at meetings of the Council (including Cabinet and Committee meetings). Members have to decide first whether or not they have a personal interest in the

matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A **personal** interest is (a) any interest you are obliged to register, and (b) which affects you (or a relevant person) more than most other people in the ward concerned. People in the area include those who live, work or have property in the “relevant person” includes a member of your family, a close associate, partner, employer etc (see code for full definition).

If you do have a personal interest, you must declare it and say what the interest is at the beginning of any meeting where the issue is to be discussed or as soon as it comes to light. However, you can still take part in the meeting and vote unless the personal interest is also a prejudicial interest.

Whether the interest is **prejudicial** is a matter of judgement for each member. What members have to do is ask themselves whether a member of the public – if he or she knew the facts – would reasonably think that the member’s interest was so significant that his/her judgement of the public interest is likely to be prejudiced by it.

Having said that, the new Code of Conduct provides that various types of interest are not prejudicial interests (see paragraph 10 (2) of the Code, or seek advice if in doubt).

If a Cabinet Member has a prejudicial interest in a matter he/she cannot take part in decisions about that matter.

A member with a prejudicial interest should not seek improperly to influence a decision on the matter in question.

Members are encouraged to bring their personal experience to bear when considering matters but they should not be involved in taking decisions if they have a prejudicial interest.

Further information on the nature of prejudicial interests can be provided the Head of the Committee and Governance Services (ex 3134).

### **Gifts or hospitality**

Members are required, within 28 days of receiving gifts or hospitality over the value of £25, to provide written notification to the Council’s Monitoring Officer giving details of the nature of that gift or hospitality and the person from who it was received. Please contact Reuben Segal on 7641 3160.

### **Training on Planning and Licensing Procedures**

Detailed training on these two important aspects of the City Council’s statutory functions is provided to assist Members and officers. The Planning training is based on the Nolan Committee’s recommendations and guidance provided by the Royal Town Planning Institute, the Local Government Association, the Commission for Local Administration in England and the Audit Commission. The

Licensing training is based on the requirements of Licensing Act 2003, related Regulations and the rules of procedure adopted by the Licensing Committee.

Copies of both sets of slides used for training purposes are available from the Committee and Governance team (x 3160).

**The following note is still included for information and guidance:**

**ADDITIONAL GUIDANCE FOR ALL MEMBERS OF THE CITY COUNCIL ON DECLARATIONS OF INTEREST FOLLOWING THE LOCAL GOVERNMENT OMBUDSMAN'S REPORT INTO THE BELGRAVE ROAD/VAUXHALL BRIDGE ROAD MATTER**

1. The full Council received a report on the Ombudsman's report into complaints about the way in which the Council had dealt with traffic proposals affecting Belgrave Road and Vauxhall Bridge Road at their meeting on 14 November 2001. Most of the complaints were rejected by the Ombudsman, but he did find that three Councillors failed to declare a personal or private non-pecuniary interest at the Committee meetings on 30 June 1998 and 26 January 1999; and that a fourth Councillor had a "clear and substantial interest" which was not declared at those two Committee meetings. He said that these Councillors breached the National Code of Local Government Conduct and that this amounted to maladministration.
2. The City Council's Standards Committee has, therefore, approved this guidance to all Councillors in an attempt to avoid a similar situation arising in the future.
3. The relevant provisions of the former National Code, which were found by the Ombudsman to have been breached in the Belgrave Road/Vauxhall Bridge Road matter, have now been superseded by the statutory Code of Conduct for Members and Co-opted Members summarised above.
4. Direct and Indirect Pecuniary Interests (under the Local Government Act 1972) and substantial and non substantial non pecuniary interests (under the former National Code of Local Government Conduct) are now replaced simply by "personal interests" and "prejudicial interests" under the new Code of Conduct.
5. Under the former National Code if a member had a significant non-pecuniary interest it had to be declared, but the Member could nevertheless participate in debate and vote, unless the interest was "clear and substantial". Similarly, under the new Code, personal interests must be declared but a member who has declared such an interest may nevertheless participate and vote unless the interest is also "prejudicial" in which case (generally speaking) the Member must leave the meeting when the matter is being decided. (In addition the Code provides that a Member with a prejudicial interest must not exercise executive functions in relation to



the matter in question nor seek to improperly influence a decision about the matter).

6. A "prejudicial interest" is (subject to exceptions) one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.
7. In the Belgrave Road/Vauxhall Bridge Road matter, all four Councillors concerned lived within the consultation area for the traffic proposals concerned. Three lived in streets at varying distances from the principal routes affected, but the fourth lived literally a few doors away from Belgrave Road, although not on a street which was identified in the Committee reports as being particularly affected by traffic flows etc. as result of the proposals concerned. None of the Councillors concerned realised at the meetings in question that they ought to be declaring an interest. Arguably, none of the Councillors concerned were more affected by the proposal to remove Belgrave Road from the red route network than other people living in the area although, as previously noted, one Councillor did live particularly close to Belgrave Road.
8. The Ombudsman concluded, in relation to the first three Councillors, that whilst they should have declared a non-pecuniary interest, the interests were not "clear and substantial" and they were, therefore, entitled to participate and vote on the issue. With regard to the fourth Councillor, however, the Ombudsman wrote as follows:-

"Councillor B's case is more difficult to judge because of the proximity of his home to Belgrave Road.

....The reports about the red route options did not say that either option would have an affect on Councillor B's street.....

Councillor B's house is a few doors away from Belgrave Road: **because of this proximity**, I consider that a member of the public, knowing the facts, probably would reasonably think that Councillor B **might** be influenced by his interest .....

On balance, I have concluded that Councillor B's interest was clear and substantial and that, in accordance with paragraph 11 of the Code, he should have withdrawn from the meetings at which the red routes were considered."

(Emphasis added.)

It is reasonable to suppose that if a similar situation arose under the new Code of Conduct. The first 3 Councillors would be held to have "personal interests", but only the fourth a "prejudicial interest" (on the basis that the value of his home would have been affected by the proposals).

9. **In view of the Ombudsman's findings, the Standards Committee would advise all Councillors as follows:**

- **If you (or a relative or friend or other person with whom you are associated under paragraph 8 of the Code) are included within the consultation area for a development proposal, highway scheme, or other matter, this is arguably because the view has been taken that you (or they) may be affected by the matter in question (albeit, possibly, along with many others). That being the case, it would be safest to conclude that you have a personal interest in the matter and to declare that interest if you are present at a meeting at which the matter is being considered (or if you are a Cabinet Member taking a decision on the matter). The only exception would be if you are not affected to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the ward affected.**
  
- **Declaring such an interest does not mean that you need necessarily withdraw from participation in debate, voting or decision making. You need to decide whether the interest is prejudicial. If it is not, then you may continue to take part in the discussion of the matter and vote on it (or if a Cabinet Member, make the relevant decision).**
  
- **If, however, it is prejudicial, then you should not take any part in the proceedings and should always withdraw from the meeting whilst the matter is being considered (in the case of a Cabinet Member invited to make a decision, the decision will need to be taken either by the Leader, or by another Cabinet Member nominated by the Leader).**
  
- **In deciding whether such an interest is prejudicial, you should ask yourself whether members of the public, knowing the facts of the situation, would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest. If you think so, and the proposals could have an impact on you (or a ..... or body described in paragraph 8 of the Code) you should regard the interest as prejudicial.**
  
- **You will need to make a judgment on the facts and, if in doubt, seek advice from the Head of Legal and Democratic Services, preferably well in advance of the meeting in question. What does seem to be clear from the Ombudsman's decision is:**
  - **You are likely to have a prejudicial interest and should not, therefore, participate if you are affected by the proposed decision in some particular way, ie. more than the generality of those affected by the decision, eg. in the context of a highway scheme, if you live in the principal streets affected, or in a street which is identified as being indirectly affected, such as by increased or decreased traffic flows.**

- **Even if you are not particularly affected by a scheme in this way, but you live particularly close to the routes concerned, then, in view of the Ombudsman's decision in the Belgrave Road/Vauxhall Bridge Road case, and if the scheme could have a financial impact on you (or a person or body mentioned in paragraph 8 of the Code) it would be advisable to regard your interest as prejudicial and, therefore, not to participate.**
- **In the context of a development proposal, if you are in any way directly affected, eg because you are within sight of the development, overlooked by it, or directly affected by increased or reduced traffic or parking, and the proposal could have a financial impact as aforesaid then you should regard the interest as prejudicial.**

(Note: The guidelines set out above have been modified since they were approved by the Standards Committee to take account changes introduced in the new Code of Conduct).

#### Advice

In general, if Members are in any doubt about whether they have a personal or prejudicial interest in a matter, or in respect of any other aspect of the Code of Conduct, they are encouraged to seek advice from the Head of Legal and Democratic Services on extension 2711.

### ***Bribery Act***

*The Bribery Act 2010, which repealed existing corruption legislation, has introduced the offences of offering and/or receiving a bribe. It also places specific responsibility on organisations to have in place sufficient and adequate procedures in place to prevent corruption taking place. Under the Act, Bribery is defined as “inducement for an action which is illegal, unethical or a breach of trust”. Inducements can take the form of gifts, loans, fees, rewards or other privileges.*

*Corruption is broadly defined as the offering or the acceptance of inducements or gifts or favours, payments or benefits in kind which may influence the improper action of any person; corruption does not always result in a loss. The corrupt person may not benefit directly from their*

*deeds; However, they may be unreasonably using their position to give some advantage to another.*

*To demonstrate the Council has sufficient and adequate procedures in place and to demonstrate openness and transparency all staff and Members are required to comply with the requirements of the Council's Gifts and Hospitality policy.*

## **SECTION 3 FACILITIES FOR MEMBERS**

This section gives information on the following:-

- Guidelines on the Use of Council Resources
- Cabinet Support Team
- Scrutiny Team
- Committee and Governance Services
- Media Relations Service
- Facilities provided at City Hall
- Postal and Despatch Arrangements

### **Guidelines on the Use of Council Resources**

All the expenses of the Authority are met from public funds. Any facility provided, should not, therefore, be used without first considering whether the use to which it is to be put is legitimately a Council purpose as opposed to a private or political purpose. While it is not intended to prevent or hinder in any way Members from carrying out their duties, Members themselves must take account of the distinction between their official duties as Members of the Council and their wider party political role.

Although the Council does provide facilities for political groups to assist them in the discharge of their functions, e.g. the provision of accommodation for group and caucus meetings and the provision of support services for the Leader of the Council and the Leader of the Opposition, the provision of such administrative/clerical support is strictly limited to the internal work of the political group in relation to Council business. While there can be no objection to officers being involved in assisting with the organisation and distribution of material relevant to Council business (e.g. in connection with the organisation of group meetings) it would be inappropriate for officers to be asked to become involved in the distribution of any material which might be regarded as “inappropriate” (for example it would not be appropriate for officers to be asked to distribute material which is disparaging to other Members of the Council).

[For further advice on the above, please contact Janis Best, Member Services Manager on extension 3255.]

Council stationery and photocopying, despatch and postal facilities, wherever provided, are available to provide support to Members of the Council. These services are provided to assist Members in the performance of their official Council duties and with constituent’s casework only. They must not be used by Members in connection with party political matters.

**Please note: The production of papers and letters for circulation to Members of the public etc on a large scale will not normally be acceptable nor will services be provided on matters which are, in the opinion of the Chief Executive, of a political nature.**

## **What is provided?**

### **Members' Services**

Services for Members can be obtained from:-

- Cabinet Support (ext. 3255)
- Scrutiny Team (ext 2636)
- Committee and Governance Services (ext. 3134)
- Media Relations Service (ext. 3995)

### **Cabinet Support Team**

This team is part of the Member Services team within the Communications and Strategy Directorate. It provides support to:-

- Leader of the Council
- Cabinet Members
- Chairman of the Planning and City Development Committee
- Chairman of the Licensing Committee

The team provides research and project support on Council-wide and operational issues, monitoring the progress and implementation of policy initiatives as well as providing a comprehensive administrative and support service. Further details about the functions of the Cabinet Support Team can be found in the General Information Section of this Code.

### **Civic Communities Team (ext. 3255)**

The Civic Communities Team, also situated within Member Services, provides support in producing the annual Statement of Ward Members' Priorities for each ward. They also research, draft and submit recommendations for expenditure from the Ward Budgets as well as monitoring expenditure of the budgets.

The Executive Civic Officers provide Members not supported elsewhere with a casework service and also act as the general contact point for Members enquires for the public. In addition to the above services, Members can of course contact departments directly with enquiries /complaints/requests for information.

Finally, the team is responsible for the Council's engagement function through the delivery of three rounds of six Area Forums every year.

### **Scrutiny Team (ext 2636)**

This is a dedicated resource available within Member Services responsible for driving improvements in the scrutiny function, agenda setting, the delivery of the annual Scrutiny Monitoring report, as well as commissioning and undertaking scrutiny research as part of an agreed programme of investigations.

For all matters relevant to the Member Services team, please contact Janis Best, Member Services Manager, on ex 3255.

### **Committee and Governance Team**

- compile agenda and drafts minutes for all Cabinet meetings, Cabinet Committees, Policy and Scrutiny and other Committees and Sub-Committees
- advise on the clearance of Committee reports
- advise on the programming of Cabinet/Committee business/rules of procedures, including individual Cabinet Member decisions
- provide information on previous Cabinet/Committee decisions

[For further advice on the above or the role of individual Cabinet Members, please contact Reuben Segal, Head of Council, Cabinet and Committee Secretariat on extension 3160.]

### **Media Relations Service**

The Communications Team are responsible for:-

- media relations – responding swiftly to requests for information from journalists on Council matters
- marketing and design for corporate publications (The Annual Report and Westminster Reporter)
- providing a daily media monitor for Members and Senior Officers.

For all matters relevant to the media team, please contact Fergus Sheppard, Media Relations Manager on ex 3995

Where are services provided?

Accommodation

General

**It is the policy of the Council that accommodation in administrative buildings should not be used for Members' Surgeries. Accommodation in other Council buildings can be used for surgeries upon payment of the normal hiring charges.**

Members' Rooms are situated in City Hall and the facilities available are as follows:

- **a telephone extension to the main switchboard for official internal and external calls**
- **a television set**
- **photocopier**
- **a writing desk, supply of official Members' stationary, envelopes, headed note paper and reply paid envelopes**

- a word processor with links to the internet and intranet
- copies of some daily and local newspapers
- copies of periodicals eg, Local Government Chronicle, Municipal Journal
- other general information and reading of interest which is related to local government and public service
- City Map and Index to Streets
- Paper shredding machine
- a complete copy of the Electoral Register
- Coffee and tea making facilities, sandwiches and confectionery

Health Warnings

Photocopier

The photocopier is not intended to be used for high volume printing and must only be used for a limited amount of copying (up to a maximum of 50 copies of any particular item).

For larger print runs, photocopying facilities can be obtained from the Print Room on the first floor.

Use of the above facilities

**Please note that use of all the above are restricted to official council business and casework papers and must not be used by Members in connection with party political matters.**

Additional Meeting Room Facilities at City Hall

There are a number of rooms on the 17<sup>th</sup> floor which can be used by Members for official Council business. The rooms seat between 12-18 and 20-40 people depending on the required room layout. Rooms 3 and 4 and 5, 6 and 7 can be opened up to make larger rooms.

These rooms are heavily used and must be reserved in advance through the Helpdesk on extension 2020. Certain outside organisations may use the rooms at City Hall although a charge will be made. The City Council may waive the charge in respect of certain specific organisations.

**These meeting rooms may not be used for Members' private business or for Members' Surgeries.**

Westminster Council House, Marylebone Road

All meetings of the full Council are held at Council House. No car parking facilities are available.

**NB. Please note that Council House is expected to be closed until late 2016.**



## Additional Meeting Room Facilities at Council House

**There are a number of rooms available which can be used by Members for official purposes connected with Council business. These rooms can be booked subject to availability in advance through the Helpdesk on extension 2020.**

### Disabled Access

**There is a stairlift for wheelchairs through a side entrance at Council House but this is not large enough to take the larger powered wheelchairs. The porter on duty can be called upon to help people to gain entry to the building.**

**Disabled toilets are provided at City Hall on 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> floors at City Hall and on the first floor of the Council House.**

### Car Parking

(i) at City Hall

**Due the refurbishment of the adjoining property, Kingsgate House, car parking is not currently available at Westminster City Hall. Limited car parking facilities, pre-booked at least 24 hours in advance, are available in the basement car park at Cardinal Place for Members attending on official business. Any general queries concerning car parking for Members should be addressed to the Helpdesk on extension 2020.**

(ii) at Council House

**There are no parking facilities at Council House.**

(iii) Assistance with Parking whilst on Official Duties

**All zone ResPark permits are available to all Members of the Council to assist them with parking whilst carrying out official Council duties only.**

**The permits are renewed annually subject to completion of the necessary application form. The administration is carried out by Janis Best, 7641 3255. Any vehicle changes should also be reported to that officer as soon as they occur, as the permit covers the actual vehicle being used. In the event of a change of vehicle please remember to return the old permit.**

### Catering

(i) City Hall

**Members may make use of the restaurant, which is situated on the first floor of City Hall. The restaurant is open daily between 8am and 4pm (but closed between 11.30am and 11.45am for cleaning/restocking) and provides**

**cooked breakfasts, filled rolls and sandwiches during the morning and hot lunches, pizzas, jacket potatoes, a salad bar and a selection of fruits and confectionery.**

**Coffee, tea and a selection of food, including sandwiches, are provided at the majority of evening Committee and Sub-Committee meetings.**

**Coffee and tea making facilities and a selection of light refreshments are provided in the Members' room.**

(ii) Council House

**A full meal is provided to Councillors free of charge before Council Meetings in the Reception Room. Councillors may invite guests to Council Meetings but a charge will be made if the guest requires a meal. If an additional meal for a guest (£10) is required, the Head of Council, Cabinet and Committee Secretariat (extension 3134) should be notified in advance of this request.**

Council Diary and Handbook

**Every Member is issued with a Diary and Handbook. Both are regularly updated and distributed to Members. However, the accuracy of the information contained in the handbook in particular can only reflect the information given by individual Members to Member Services. Members should, therefore advise Member Services at the earliest opportunity to advise of any changes to their address/telephone/fax numbers/email address advising whether they are for release to members of the public.**

The diary contains:-

- **dates of all scheduled Council meetings**

The handbook contains:-

- **some statistical information about Westminster**
- **services of the Council and premises from which they are administered**
- **information on Chief Officers, past Lord Mayors, Honorary Freeman of the City and Members of Parliament who represent constituencies in Westminster**
- **details of Council Members**

Postal and Despatch Arrangements at City Hall

**The Post/Despatch room is situated on the ground floor at City Hall and handles all internal and external postal arrangements. Members can use this office for the despatch of mail relating to official Council business and casework mail (the Chief Executive can require envelopes to be left open so that the use of the postal and despatch facilities**

may be monitored). This facility must not be used for mass circulation of individual items nor for party political material.

All post from Members will be despatched on the day of receipt and posted second class unless otherwise specified. Members may leave their post for collection (appropriately addressed) at:-

- ground floor reception
- libraries
- any main administrative building

The post and despatch office also organises the despatch of Council post to Members – Members can, subject to request, receive a delivery by courier on Wednesdays and Fridays (and on other days when papers are urgently required).

Collection of Mail

It is possible for Members to arrange to have mail collected from their homes as part of the multi-drop service on either Wednesday or Friday evenings. Members should call 020 7641 1831 to make appropriate arrangements.

Green Promise Campaign – Recycling Services for Members

Members can make their own “green promise” and actively participate in the Campaign to Reduce, Reuse and Recycle (the 3R’s) by using the specialist recycling service. A canvas bag service is available for the recycling of committee or other papers and envelopes for reuse. The bag, once filled, will be collected from Members’ homes for return to City Hall.

[For further information, or to organise a collection, please contact extension 1831].

## SECTION 4 INFORMATION

This section provides information on:-

- Receiving Information
- What types of Information are held by Westminster City Council
- What confidential information is held by Westminster City Council
- Requirement to maintain confidentiality
- Members' Rights of Access to information not available to the public

*Receiving information*

**It is essential that Members have the information they require to enable them to fulfil their policy formulation, monitoring and ward representative roles. Members receive a wide variety of information from Council officers:**

- **Agenda, reports and minutes** of the committees they belong to and any other they request (there may be limitations on the confidential parts of some agenda)
- **Weekly Information Bulletin (known as "WIB")** This is produced each Friday by Member Services and provides up to date information on general matters of interest to Members and officers including decisions taken during the previous week.
- **Operational information** such as the list of planning and licensing applications received.
- Briefing notes on **'information' items**
- A daily **Media Monitor** in the morning and **Evening Standard Summary** in the afternoon
- A daily **Public Affairs Today** publication
- A wide variety of **other information**

If requested Chief Officers will as far as reasonable and practicable hold periodic briefings for groups of Members from either party (either together or separately) about the substantive issues facing the department or on subjects identified by Members.

Members should note that a copy of any factual information supplied by an officer in response to a request will be sent to the relevant Chairman, Cabinet Member and/or Lead Member. This provision relates to all factual information supplied except matters which relate personally to a Member or their casework. And ensures that the relevant Chairmen, Cabinet Members and Lead Members are aware of the issues of general concern.

Subject to the guidance below, Officers will endeavour to supply Members with any information which has been requested. However, it may not be possible for the required information to be made immediately available particularly if the matter is complex. Members are requested to give Officers as much notice as possible if information is required or Members wish to discuss any issues.

**Before passing, or discussing, any information received from Officers to anyone else, Members must ensure that it is appropriate to do so and if there is any doubt they must seek advice from the Head of Legal and Democratic Services. This is particularly critical in relation to personal information about particular people or groups of people. Members must also consider the status of information they have access to as a Councillor when serving on outside bodies such as School Governing Bodies, etc, see sections on Confidential Information below.**

What types of information are held by the City Council?

Information held by the City Council can be classed into three categories:

#### **1. Information available to Members and the Public**

The Freedom of Information Act 2000 gives anyone the right to request information held by the Council. In most cases the Council is under a duty to confirm or deny that it holds the information and unless an exemption applies it has a duty to supply the information. Other Access to information legislation lays down the documents which must be made available to the press and public in the context of Committee, Cabinet and Cabinet member decision making.

The City Council, as a matter of policy, confers on **Members** the right to see information which extends beyond the legal requirements. Thus, the Council's former Policy and Resources Committee adopted the following policy:

“Information and documents should be made available on request by Officers to Members unless (a) there is a clearly and properly justifiable reason for declining access and (b) the Member in question cannot establish a legal right to the information or documentation.”

It is also worth noting that wherever possible, the City Council makes information available for public consumption in line with the transparency agenda set by central government, including all expenditure over £500.

However, as indicated below, not all information which is made available to Members can be made available to the public.

**2. Information not available to the public but available to Members on a confidential basis**

Some information is made available to Members subject to a requirement that such information is kept confidential to the Member concerned. This information must not be made available to the public, press, other organisations or anyone else. The information can be discussed between Members and appropriate officers in the “closed” session of Committee and Cabinet meetings or outside formal meetings with appropriate officers. Such information is often personal to particular individuals and, or commercially or otherwise sensitive. It is essential that such information is not passed onto or discussed with anyone else.

Information in this category will be clearly marked as confidential before it is released to Members.

**3. Information not available to all Members, or the public**

**There is some information which is not automatically available to all members, even on a confidential basis, and should not be made available to the public.**

What confidential information is held by the City Council?

**There are three types of sensitive information held by the Council and which can be described as ‘confidential’. All information falling within any of the three categories must be recognised as confidential and preserved by both Members and Officers alike.**

**However, information which at one time was to be treated as confidential may subsequently cease to be confidential. Members should seek advice from the Head of Legal Services if they consider that this might apply to any confidential information which they hold.**

**The three types of sensitive information held by the Council are:**

1. Confidential Information in respect of which the press and public must be excluded from meetings

**Confidential information is defined in Section 100A(3) of the Local Government Act 1972 as:**

- “(a) information furnished to the Council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and**
- (b) information the disclosure of which to the public is prohibited by or under any enactment or by order of a court”.**

## 2. Exempt Information

Information of the type listed in Schedule 12A of the Local Government Act 1972 in relation to which the Council may pass a resolution to exclude the press and public during consideration of the relevant item of business.

The table below identifies 7 categories of information which are exempt subject to certain conditions. However, information falling within any of the 7 categories is not exempt if:

- a) the public interest in disclosing the information outweighs the public interest in maintaining the exemption, or
- b) it relates to proposed development for which the Council as the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General regulations 1992(a).

Guidance published by the Information Commissioner's Office states that "in effect something 'in the public interest' is simply something which serves the interests of the public. When applying the test, the public authority is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information."

<b>Category</b>	<b>Condition</b>
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 the information)	Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Act 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993.

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

3. Other Confidential Information which is not the subject of discussion at a meeting.

**It is not only ‘confidential information’ or ‘exempt information’ as defined in the legislation that should be protected. Information other than that which is to be discussed at, or is the subject of a report to, a Council meeting may be provided to a Member in confidence. Information provided expressly ‘in confidence’ to a Member (whatever words are used to describe its confidential nature) should be treated as confidential information. An example might be sensitive legal or**



**financial information provided to Members by Officers outside the context of a formal Council meeting.**

**Requirements to maintain confidentiality**

The City Council's Standing orders, Contracts Code, Members' Code of Conduct and the Officer's Disciplinary Code require Members and officers to maintain confidentiality.

In particular paragraph 4 of the Members Code of Conduct states:

*"You must not:*

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*
  - (i) you have the consent of a person authorised to give it;*
  - (ii) you are required by law to do so;*
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
  - (iv) the disclosure is:*
    - (aa) reasonable and in the public interest; and*
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or*
- (b) prevent another person from gaining access to information to which that person is entitled by law."*

Unauthorised disclosure of information provided in confidence may therefore breach paragraph 4 of the Code and/or paragraph 5 'by bringing your office or authority into disrepute' and/or paragraph 6 by conferring on or securing an improper advantage or disadvantage on any person, including yourself.

In addition to this paragraph 7 of the Code states:

*"When reaching decisions on any matter you must have regard to any relevant advice provided to you by ...your authority's Monitoring Officer; where that officer is acting pursuant to his or her statutory duties."*

Any clear breaches of the Code by Members will be drawn to the attention of the Party Whips by the Chief Executive and may be the subject of a complaint to the Council's Standards Committee.

Members have wide rights of access to information held by the Council but this does not mean that they may share all this information with other people or the public. Much of the information disclosed under the "need to know" or the additional statutory rights of access to Council and Executive documents will include confidential information, either about individuals, the Council or other persons/organisations.

Members are strongly advised to seek advice from the Director of Legal and Administrative Services before considering the disclosure of information given to them in confidential or otherwise restricted circumstances. It may be that a Member receives information which s/he believes has been incorrectly classified as confidential. In such an event the Member should seek legal advice.

Experience in dealing with requests for information from Members has demonstrated that deciding whether the requested information should be released is not always a straightforward issue. In the case of a dispute the Chief Executive will make the final decision.

Member's must also consider that the Council could face legal action for breach of confidentiality due to the Member's actions.

Any officer who breaches confidentiality is committing a disciplinary offence and action will be taken wherever possible.

## **Members' Rights of Access to Information not available to the public**

Information available to the public under the Freedom of Information Act (FOI) or other legislation is also available to Members. However, information which would not be made available to the public under the FOI may nevertheless be made available to Members on a confidential basis. The circumstances in which Members may have a right to information not available to the public, either under the common law or under statute, are set out below:

### **The Common Law position**

At common law a Member has a prima-facie right to inspect documents so far as access is reasonably necessary for them to perform his or her duties. This is not a "roving commission" to access any documents and the member needs to prove he/she has a right to know. If a Member's motive for seeing documents is indirect, improper or ulterior this may be raised by the Council as a bar to the entitlement.

Much of Council business is conducted through Committees of the Council or Cabinet. If a Councillor is a Member of a Committee or Cabinet he/she has the right to inspect documents relating to the business of that body. If not the Councillor has to show cause why sight of them is necessary to perform his or her duties. The entitlement of Committee and Cabinet Members to inspect documents of the Committee or Cabinet is a very strong one and certainly stronger than that of the non-member. Ordinary "confidentiality" is not a good reason for officers declining access to documents although it is legitimate to release documents on a confidential basis to Members.

The right of access is to the Member only. It does not generally allow a Member to further disclose the information and indeed the unauthorised disclosure of confidential information may be a breach of the Code of Conduct.

Based on legal advice received from Leading Counsel over the years, there are categories of documents which need not be made available and, in some cases, should not be made available. In particular, advice prepared by officers for a group of Members from one political party will not be accessible to other Members. However this does not mean that it is legitimate for officers to give Members political advice. Thus for example, confidential briefing notes to Chairmen, Cabinet Members and briefing notes to informal meetings of the Cabinet are not generally disclosed to other Members.

Other categories of documents where access may be declined are as follows:-

1. Working drafts and officers aide-memoirs and possibly memoranda depending on the circumstances.
2. Notes of informal working groups of officers – this would not cover for example Contracts Review Board (does this still exist?) which is enshrined within standing orders of the City Council and exercises formal functions. It would cover however an ad-hoc grouping of officers who are effectively

“thinking things through” before putting up proposals to their Chief Officer or a relevant Committee or Cabinet/Cabinet Member.

The right of access is access to **documents**. It is not a right to cross examine officers (though Policy and Scrutiny Committees may question officers about the discharge of their functions). Standing Orders provide a mechanism by which Members can raise questions at Council if they wish. Of course in practice, officers frequently answer questions raised by Members. Where it applies, the common law right of access to documents does not depend on whether the issue is about to be reported to Committee, Cabinet or a Cabinet Member but can be exercised at any time.

### **Additional statutory Members’ rights of access**

Any document which is in the possession or under the control of the Council and contains material relating to any business to be transacted at a Council meeting or committee or sub-committee of the Council shall be open to inspection by any Member unless it appears to the Director of Legal and Administrative Services that the document/s disclose exempt information (s.100F Local Government Act 1972).

However, those documents which contain information which is exempt by virtue of categories 3 or 6 in the above table, will still be available for Members to inspect, ie those documents which contain:

- a) information relating to the financial or business affairs of any particular person, (except 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), or
- b) 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.

## **SECTION 5 CONFERENCES**

The following protocol for Members wanting to attend conferences was agreed by the former Policy and Resources Committee in February 1996.

- a) **If you are the Council's representative (or nominee) on Local Government Association (LGA) or London Councils Committees and want to attend relevant conferences.**

**When this occurs the Member is entitled to attend the conference as an approved duty without the need to seek approval. In most cases the Council's representative will be the relevant Cabinet Member (or Deputy Cabinet Member).**

- b) **A Member who is not the Council's nominated representative (of either political party) wishes to attend a conference which is relevant to Council business.**

**In this case the Party Whips' nomination must be sought and the Chief Executive has delegated authority to approve the attendance. The following criteria will be used:**

1. Is the Conference relevant to Council business?
2. Is the Member on the relevant Committee or the relevant spokesperson (or opposition spokesperson) on the given subject?
3. Can the expenditure be met from the budget allocation?

### **Payment of fees and expenses**

For attendance at conferences travelling and subsistence (up to the amounts specified in the City Council's scheme) will be paid to Members.

There is an annual budget for meeting conference fees which can be funded from the £15,000 per annum Members Training Budget..

### **Reporting back**

**Any Member who attends a conference is asked to report back on the conference, cost and attendees to the next meeting of the relevant Committee.**

## **Conference Bookings**

Member Services are responsible for Conference arrangements.

## **SECTION 6 MAKING AND MANAGING COMPLAINTS – ADVICE TO MEMBERS**

Section 6 of the General Section of the Code “When Things Go Wrong” gives advice on the:-

- Corporate Complaints Procedure
- Role of the Local Government Ombudsman

Details on how complaints raised by Members are handled is available from Cabinet, Committee and Scrutiny Secretariat (x 3160).

Officers are provided with a guide to complaints handling (“Westminster Corporate Complaints Team, Best Practice Guide for Effective Complaints Handling”). This provision addresses the quality of responses and includes checklists, advice on how to respond to a complaint at each stage, information on each department’s procedures and contact names.

Some services are under statutory requirement to deal with complaints in specific ways and have their own legally specified appeals procedures. These include parking charge notices, planning applications, and housing benefit. There are also special arrangements for schools and social services. Stages 1, 2 and 3 complaints can still be carried out on any of these services providing they address matters not covered by the statutory provision. For example, a complaint about a schoolteacher would be dealt with by the appropriate Headmaster and Board of Governors in the first instance but a complaint about an education policy would be considered by the Education Department.

The guidance will be reviewed regularly to ensure it reflects current practice.

## **SECTION 7 COMMUNICATIONS AND THE MEDIA**

### **Communications**

**The Communications department covers media relations, marketing, internal communications, public affairs and consultation.**

### **Media relations**

The Council is quoted, reported or covered in more than 4,500 articles or broadcast reports each year. The following vehicles are commonly used to communicate to journalists the position of the Council on a number of policies.

- **Broadcast Interviews:** Media Officers offer Members or Senior Officers for interview on radio and television to explain and promote council policies.
- **Press releases:** To support council policy and promote the interests of the city, the media team issues press releases setting out the views of the authority. These are in response to news events, council activities and performance or policy decisions.
- **Verbal or written briefing:** Press Officers offer briefing to journalists on a range of issues based on material supplied by service departments.

Members can contact the Communications Team direct to make an enquiry on a particular issue. The Communication's Team cannot, engage in party political activity or promote the individual interests (political or otherwise) of an individual Officer or Member.

Members must have regard to any applicable Code of publicity made under the Local Government Act 1986.

### **Media enquiries**

There will be occasions when callers will seek a view or opinion from the City Council on a particular issue. The Communications Team can provide that view from a relevant official document or from facts provided by officers. The Communications Team may seek a view or opinion on an issue from the relevant Chief Officer and/or Cabinet/Leading Member before responding to the enquiry. In these cases, it must be stressed to all parties concerned that this represents the view of the Council as a corporate body.

**In most circumstances the team will seek the view of the relevant service department and legal services before issuing a comment. The Director of Communications and Strategy will authorise the 'line to take' on an issue in exceptional circumstances where the news agenda dictates the need to act with speed; where officers cannot be contacted or outside office hours.**



Callers seeking a view specifically from a political group will be directed to the most appropriate member of the Council. The role of the Communication's Team in these circumstances is to contact the appropriate Member with the request providing the journalist and Member with their contact details and a brief description of the nature of the enquiry.

### **Publications and Corporate Controls**

The City Council produces a large amount of printed material to promote services, inform customers and raise awareness of certain issues.

In most cases, publicity material is commissioned by Chief Officers through service heads and the Communications Team provides an "agency" service for them to call on. The City Council does not have a general central publicity budget but does have budgets to pay for the production of the Council's "core" publications (Westminster Reporter, Annual report etc.). Funding for publications outside this core group is the responsibility of the commissioning officer and the relevant Chief Officer.

There may be occasions where it is appropriate for Members to be consulted on the content and style of publicity material either as a formal group, such as a Committee, or perhaps on a less formal basis if the material impacts on a particular area or service issue.

**In these instances, the officer responsible for producing the publicity material will need to ensure that Members' comments are taken into account, subject to the rules governing publicity detailed above.**

## **SECTION 8 MEMBERS ALLOWANCES**

The City Council has decided to pay basic allowances to all Members towards the expenses they incur as Members. The Members Allowances Scheme which gives details of the allowances Members are entitled to receive is set out in full in the Constitution and on the Council's website ([www.westminster.gov.uk](http://www.westminster.gov.uk)).

The Basic allowance is paid to all Members who wish to receive it. In addition, in the June following the City Council elections, or upon election if elected at a by election, each Councillor will receive an additional one off basic allowance to fund the setting up costs associated with being elected as a Councillor, primarily those relating to the provision of ICT. A Special Responsibility allowance is paid to Members who have specific additional responsibilities.

The Council is required to publish annually the amounts of allowances paid to individual Members. Travel claim forms are also open to public inspection.

Members wishing to query any aspect of their allowance should contact Reuben Segal on extension 3160.

## **SECTION 9 DATA PROTECTION ADVICE FOR MEMBERS**

### **What is Personal Data?**

Under the Data Protection Act 1998, Personal Data is defined as data that relates to a living individual who can be identified:

- (a) from those data, or
- (b) from those data and other information which is in the possession of, or likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual, and any indication of the intentions of the data controller or any other person in respect of the individual. (Section 1(1)).

Personal data will therefore cover basic details such as name, address, telephone number, and Date of Birth, as well as opinions, facts and figures with regard to a particular individual. Processing personal data encompasses the following:

Any activity (obtaining, recording, holding, organisation, adaptation, alteration, retrieval, consultation, use, disclosure, alignment, combination, blocking, erasure and destruction.) that involves Personal Data, which is undertaken either directly, by a Data Controller, or on their behalf by a Data Processor.

Processing personal data must be purposeful, should not be excessive and not misleading as to the reasons for collecting and/or disclosing information. It should be held securely and accessed only on a 'needs to know' basis. Personal data should not be kept for longer than is necessary and should not be shared for reasons outside of the original purpose for which it was collected.

### **Key Definitions and Processes**

**Data Subject:** - the individual who is the subject of the personal data held by a Councillor. Or who is significantly mentioned within any correspondence held by a Councillor.

The Act only applies to living individuals who have a Right of Access. This is defined as the right to be informed if their personal data is being processed by a Data Controller or by someone on his behalf. This is followed by the right to have the information communicated to him/her in intelligible form (normally hard copy) detailing the information being processed, where or how it was obtained, why it is being processed and to whom it is has or will be disclosed.

Councillors have an obligation to respond to requests for information, formally described as a **Data Subject Access Request**. This must be made in writing. Councillors must satisfy themselves as to the identity of the applicant, as unauthorised disclosures to third parties not entitled to receive the information breaches the Act. All such requests should be acknowledged immediately, and in any event a response must be made within 40 calendar days of receipt of the request. It is a criminal offence to destroy information requested under the right of

Subject Access once it has been received by the Data Controller or his/her Data Processor.

Data Subjects have other rights conferred on them by the Act. These are:

The right to prevent processing likely to cause distress and/or damage  
The right to Prevention of Direct Marketing  
Prevention of Processing for Automated Decisions

Where Councillors receive a request pertaining to any of the rights conferred to data subjects under the Act due care must be given to statutory obligations and council best practice in this area.

**Data Controller:** - the person who determines the purposes for which and the manner in which personal data will be processed.

Councillors fall under this definition where they are processing other people's personal data for the purpose of their constituency, party political or other non-personal civic activities. All Councillors must comply with the 8 Data Protection Principles and must provide the Right of Access to personal data. All Councillors are required to **register individually with the Data Protection Registrar**. All Councillors are responsible for the security of the personal data they hold.

Examples of personal data falling under the control of Councillors include:

Details of complaints  
Case work on behalf of a constituent  
List of contacts  
Personal data held for general constituency work.  
Canvassing on behalf of your party

**Data Processor:** - the person or organisation who processed the information on behalf of the data controller.

Councillors do not have an automatic right of access to any of the personal data processed by the Authority, and must adhere to internal data protection and security procedures with regards to the obtaining and use of such data. Personal data will only disclosed to Councillors where they can demonstrate that it is necessary in relation to their specific Council duties or work with their constituents. Councillors are not entitled to obtain from the Authority personal data relating to non-constituents. Information obtained from the Authority should be treated in confidence, and only disclosed in line with the Council's wishes. Councillors must seek authorisation to disclose personal data to other organisations.

Examples of personal data processed on behalf of the Authority include:

Constituency Work  
Case Work  
Committee Work

All requests for personal data held by the Council should be made in writing to the department concerned, stipulating in what capacity and for what purpose the information is required.

### **Summary of Obligations**

Process personal data including its storage and disposal in line with the 8 Data Protection Principles (see below)

Register with the Data Protection Registrar

Provide and ensure the right of Data Subject Access to personal data held in your capacity as a Councillor, Cabinet Member, Party Member or Activist or other non-personal civic duties

Provide and ensure the other rights conferred on individuals under the Act

Obtain personal data in line with the constraints sent out in this code of governance

### **Data Protection Principles**

1. Personal data shall be processed fairly and lawfully and, in particular, shall not be processed
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
4. Personal data shall be accurate and, where necessary, kept up to date.
5. Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
6. Personal data shall be processed in accordance with the rights of data subjects under this Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

If you have any queries regarding Data Protection, please contact the Corporate Data Protection Team at [dataprotection@westminster.gov.uk](mailto:dataprotection@westminster.gov.uk)

# Guidance for Officers

## Introduction

This section of the Code of Governance is aimed primarily at officers. It is intended to assist officers in their work at Westminster. It provides greater detail of some of the issues covered in the first section and other issues which are particularly relevant to officers. If you have any queries or questions about matters in this section please contact either the Chief Executive or the officers referred to within specific sections.

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# **CODE OF GOVERNANCE**

## **GUIDANCE FOR OFFICERS**



## SECTION 1 THE CORPORATE FRAMEWORK

A number of documents make up the Corporate Framework and form the basis for the smooth and efficient running of the City Council. It is essential that all departments across the Council operate in the same way and adhere to agreed, procedures. In order to ensure that this happens, and that the City Council acts within the law and in line with best practice, the following documents have been approved. These documents are not included in full in the Code of Governance but reference is made to all of them in various Sections of the Code. If you require a copy, the contact details are set out below:-

Constitution, which includes Standing Orders	Committee and Governance Services
Human Resources Framework	Director of People Services
Financial Regulations	S.151 Officer
Procurement and Contracts Code	Chief Procurement Officer

## Finance

### Financial Regulations

The Financial Regulations for financial reporting and financial accounting and processing form part of the Constitution. The Chief Finance Officer has specific powers and responsibilities under Section 151 of the Local Government Act 1972 to:

- oversee the financial affairs of the Council
- make arrangements for the administration of the Council's financial affairs
- report regularly to the Cabinet, Cabinet Members and the relevant Policy and Scrutiny Committee and other committees about financial performance.

**Financial Regulations** lay down the procedures which must be followed by Members and officers throughout the decision making process.

**The Finance Framework** covers a range of corporate standards, accounting requirements and financial processes applicable to all departmental finance staff. Each section provides an overview of the subject followed by detailed procedure notes. The Finance contact officers, shown on the contents page, will be pleased to provide any further advice and details required. The document is updated on a regular basis.

A **Glossary of Financial Terms and Procedures** is also available and may be helpful to read in conjunction with the above. The Glossary is available from the Chief Finance Officer.

### Contracts and Purchasing

#### Procurement & Contracts Code

The Procurement & Contracts Code which is to be used in relation to the Award, Monitoring and Reporting of Contracts forms part of the Constitution. The Code must be complied with when purchasing works, services or goods. The Code is currently being updated. For further information, contact the Head of Procurement.

The current version of the Procurement and Contracts Code is available at <http://committees.westminster.gov.uk/documents/s891/ProcurementCodeVersion19.pdf>

Standing Orders requires that the City Council have a code for contracting. This is now known as the Procurement and Contracts Code and relates to all procurement and contracts for works, services and goods entered into by the City Council. When taken in conjunction with any departmental guidelines, it provides the corporate framework for letting and managing contracts for the City Council. It should be noted that the procedures in this Code take priority over any local guidelines held within departments.

Procurement is the means by which the City Council purchases its services, works and goods. Significant proportions of the City Council's activities are performed through procurement. These activities range from care service contracts with non-profit organisations to large contracts often delivered in partnership with other agencies. Procurement activities are largely unseen by the public but sound procurement practice is vital to the City Council's ability to deliver essential quality services as well as ensuring good governance.

## **Corporate Ordering Policy**

The Corporate Ordering Policy must be used for the purchase of goods and services, including hire, maintenance repair and servicing of such goods not covered by the Procurement Code. Full details of the policy are provided in the Contracts (The Corporate Framework). It must be used:

- when buying goods or having the goods maintained;
- Information Technology (IT) and telecommunications purchases, where no ongoing contract is involved (there is a separate procedure on Approval of IT and telecommunications Acquisitions). IT purchases which involve an ongoing contract, bespoke software or software packages which require source code changes to meet the Council's requirements or a consultant providing professional advice should be obtained under the provisions of the Procurement Code;
- IT and telecommunications maintenance

All purchases under the Corporate Ordering Policy should result in an order being placed which quotes the Council's approved Terms and Conditions of Purchase
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### **When is the Corporate Ordering Policy not appropriate?**

- Works contracts/orders or building works are not covered by the Corporate Ordering Policy. A works contract or works order would normally require "supply and fit" where there is a need for the contractor to provide insurance cover on the "fit" element of the contract/order. Where purchases are to be made under the Corporate Ordering Policy which include the installation of the purchase, the terms and conditions of supply must address the installation aspect of the contract and the need for insurance must be considered. In any circumstances, where the estimated value of the purchase is exceeded by the estimated value of installing or fitting it, the contract/order cannot be let under the provisions of the Corporate Ordering Policy but must be let in accordance with the provisions of the Procurement Code.
- Consultancy services should be obtained in accordance with the terms of the Procurement Code and not the Corporate Ordering Policy.

Service contracts should be covered by the Procurement Code. A service agreement for a piece of equipment is more properly termed a maintenance agreement, which is covered by the Corporate Ordering Policy.

Chief Officers must ensure that the Corporate Ordering Policy is complied with.

## **Responsibilities for Council Equipment**

Guidance is available from Information Services about the responsibilities for Council equipment both at work and at home. These guidelines may have been supplemented by Chief Officers for their own department so please check whether you are subject to further guidance before acting on these guidelines. There are also detailed guidelines for the disposal of surplus equipment where appropriate and in particular of IT equipment. Equipment must be disposed of in such a way to:

- ensure suitable controls laid down to maximise income (where appropriate) provide a clear audit trail
- minimise effort for the individual department

If you do need to dispose of any equipment, please contact your Departmental Disposals Officer for further information.

## **Anti-Fraud Policy and Strategy**

The Council has an Anti-Fraud Strategy a copy of which can be found <http://committees.westminster.gov.uk/documents/s834/AntiFraudBriberyActandCorruptionStrategy.pdf>

The aims and objectives of the policy are to:

- Promote an anti-fraud culture
- Encourage prevention
- Act as a deterrent to fraudulent and corrupt acts
- Promote detection
- Provide guidance on roles and responsibilities
- Identify the pathway for investigation and remedial action

## **Response and Investment Plan**

The Council has a Response and Investment Plan which provides detailed guidance and information relating to:

- The Role of Internal Audit
- Fraud Referrals – the need to report concerns
- What to do if you suspect fraud, corruption or wrongdoing Where to report your concerns
- Action following referral - How the City Council will respond to allegations The course of investigation and potential outcomes
- Possibility of Disciplinary Offence by Council staff
- Offences committed by employees of a contractor

- Liaison with External Bodies
- Specialist Investigation Techniques
- Audit and Performance Committee
- External Audit
- *Reporting Arrangements*
- *Concluding the Investigation*
- Other related considerations
- Prosecution of offenders

A copy of which can be found

<http://committees.westminster.gov.uk/documents/s834/AntiFraudBriberyActandCorruptionStrategy.pdf>

## **Prosecution and Sanctions Policy**

This policy falls under the umbrella of the City Council's Corporate Enforcement Policy and specifically relates to the work carried out by the City Council's Internal Audit contractor.

The City Council takes fraud committed against it very seriously. This document sets down the criteria which determines when the City Council will or will not normally pursue criminal prosecution proceedings. In relation to cases involving Housing Benefits the document also sets down the alternatives to prosecution and when these will and will not normally be considered appropriate.

The decision to prosecute someone is a serious step. The aim of this policy is to provide a framework and guidance that investigators and those prosecuting offences use to ensure fair and consistent decisions are made.

This Policy forms part of the City Council's Anti – Fraud, Bribery Act and Corruption Strategy

although decisions about the course of action to take in any case can be made in reference to this Policy alone. This document is intended for public consumption.

## **Internal Control**

The Council's system of internal control is integral to its overall governance arrangements. It comprises all the policies, procedures and operations in place to:

- Promote achievement of objectives
- Manage risks
- Facilitate policy and decision making
- Ensure the economical, effective and efficient use of resources
- Ensure the integrity and reliability of information
- Ensure compliance with established policies, procedures, laws and regulations
- Safeguard the organisation's assets and interests from losses

Managers are responsible for establishing, maintaining and monitoring internal control systems and for reporting on the effectiveness of these.

The Council's governance and internal control systems are summarised in the Annual Governance Statement.

## **Internal Audit**

The Council maintains an outsourced internal audit service which operates to the standards set out in the CIPFA Code of Practice for Internal Audit in Local Government in the UK.

The purpose of internal audit is to provide an independent opinion on the effectiveness of the Council's control systems in minimising risk, supporting the achievement of objectives and promoting compliance with policies, procedures, laws and regulations.

The internal audit team carries out a risk-based annual programme of audits which span across all departments of the Council. Coverage is planned in consultation with departmental management teams and the annual programme is approved by the Executive Management Team and the Audit & Performance Committee.

There is also a counter-fraud team which conducts investigations into suspected fraud and undertakes an annual programme of pro-active counter-fraud work.

## **WESTMINSTER CITY COUNCIL'S CODE OF CONDUCT FOR EMPLOYEES - EMPLOYEES' HANDBOOK**

The law, the Council's constitution, code of governance, terms and conditions of employment, policies and procedures all bear on the way Council employees carry out their duties. The main provisions as summarised in the Council's Code of Conduct for Employees, and this Handbook offers practical advice on following the Code of Conduct in day to day work situations.

Employees are expected to be familiar with this document – ignorance is not an acceptable excuse on the rare occasions when things go wrong.

## **SECTION 2 - OFFICER STRUCTURES**

### **Introduction**

The first section of the Code of Governance gives details of how the Council's various departments are organised and the areas covered by each department.

With an organisation the size of the City Council it is essential that officers across all departments work together to the same policy guidelines and follow standard procedures.

### **Corporate Working**

Much of the Council's work involves, or has implications for, more than one department. There are extensive informal networks of communication between officers in different departments at all levels to ensure that this is achieved. One of the ways Chief Officers ensure that they are aware of all major issues occurring across the Council is by attending the Executive Management Team or the Senior Leadership Team (SLT) (see below).

Corporate Working (officers working together across departmental boundaries) is one of the most important ways of improving co-ordination and service delivery. The City Council is committed to ensuring that corporate working is followed by all Officers as a matter of course. This commitment has been – and will continue to be

– reflected in any restructuring of departments.

### **Executive Leadership Team (ELT)**

Meets monthly and comprises the Chief Executive and all the Directors. ELT's role is to ensure that an overview is taken of initiatives and activities and to assess their impact (or potential impact) on different areas of the Council.

### **Senior Leadership Team (SLT)**

The Senior Leadership Team comprises all Chief Officers and some Heads of Service and meets as necessary to discuss:

- Major issues of corporate significance
- The introduction/progress of corporate initiatives
- Liaison on cross departmental issues
- Co-ordination of the overall management of the Council

## **SECTION 3 - CONDUCT**

This Section covers:-

- Fundamental principles which underpin Officer/Member relationships
- Politically restricted posts
- Gifts, Hospitality and Entertaining guidance for Officer (including Guidelines in respect of receipt of gifts)
- Out of Work Activities and Declarations of Interest
- Conferences
- Whistleblowing at Work
- Email, Internet and Intranet Usage Policy
- Social Media

### **Fundamental principle**

The fundamental principle, which underlies Member/Officer relationships, is that officers work for the City Council as a whole. They are not employed to serve just the interests of any one group of Members but to be politically neutral and treat all Members equally. For more guidance on Member/Officer Relations see the protocol on this subject in the Constitution.

The role of officers is to carry out the Council's work under the direction of their Chief Officer in accordance with the decisions of Cabinet, Cabinet Members and properly constituted Committees and Sub-Committees.

### **Politically Restricted Posts**

In order to avoid any potential conflict of interests, and to comply with Local Government Regulations, some posts within the council are designated politically restricted posts. This means that there are constraints imposed on those postholders from undertaking political activities. (*see Part 1 Local Government and Housing Act 1989, as amended*)

The decision as to whether a post is to be designated as politically restricted on the grounds that it is a "Politically Sensitive Post" (as defined above) will be taken by the appropriate SEB Member or their nominated officer eg manager for the service/ team.

This will be determined when the post is created or when there is a change in role and responsibilities and confirmed as per the establishment management and recruitment processes. (The relevant forms under these processes require confirmation as to whether a post is politically restricted).

Staff holding jobs which are politically restricted may not:

- Stand for election as a Member of Parliament
- Stand for election as a Member of the European Parliament



- Stand for election as a Councillor in any local authority (although staff may still stand for election to a Parish or Community Council)
- Stand for election as a Member of the Scottish Parliament.
- Stand for election as a Member of the Welsh Assembly
- Act as an election agent or sub-agent for a candidate of any of the above
- Canvass at elections on behalf of a political party or a person who is or seeks to be a candidate of any of the above.

Hold office in a political party where his duties as a member require him to participate in the general management of the party or to act on behalf of the party in dealings with persons other than members of the party or members of another political party associated with the party.

Speak or write publicly on matters with the apparent intention of affecting public support for a political party (this does not apply to political assistants and is not to be construed as precluding the appointee from engaging in activities to such an extent as is necessary for the proper performance of his official duties).

The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party

permitted. *(Schedule 1 of the Local Government Officer (Political Restriction) (England and Wales) Regulations 1990 provides further detail.)*

## **Gifts, Hospitality and Entertaining Guidance**

The Bribery Act 2010 which came into force on 1 July 2011 makes it an offence to request, agree to receive or accept an advantage of some kind in return for improperly performing , or allowing the improper performance of a function or activity where that function / activity is either of a public nature or done in the course of business. The Act makes it clear that if the bribery offence is committed with the consent / connivance of a senior officer, then that person is also personally guilty of an offence.

It is a serious criminal offence under the Bribery Act 2010 for employees to corruptly receive or give any gift, loan, fee, reward, or advantage for doing, or not doing, anything in connection with their duties. This also applies to showing favour or disfavour. Employees who are in breach of the provisions of this policy may also be liable to disciplinary action under the council's disciplinary code

Key principles:

- Employees may not accept any fee or reward whatsoever other than their proper contractual pay and benefits.
- Employees cannot accept or give gifts and hospitality unless authorised by their Chief Officer or their nominated officer in limited exceptions set out below.

- All gifts or hospitality whether accepted or refused must be recorded.
- Chief Officers must have arrangements in place within their departments for recording and authorising gifts and hospitality and ensure that there is clear segregation of duties between officers declaring the receipt of the gift/hospitality and the approving manager.
- The examples set out in this policy should be regarded as the corporate minimum. Chief Officers can impose tighter standards where necessary for staff dealing with sensitive issues. In such circumstances the Chief Officers will notify the staff concerned and ensure that the standards are documented for ease of reference .
- If it is alleged that an employee has corruptly received or given a gift or hospitality, it will be for him/her to demonstrate that this is not the case

#### What are considered to be Gifts and Hospitality which must be recorded?

Gifts are not defined in the Employee Code of Conduct, but examples of the most commonly offered gifts are listed below.

Hospitality is defined as drinks, meals, entertainment, overnight accommodation, travel and holidays, but not a lift in a private or company car or in a taxi, or light refreshment in the course of official duty, eg tea, coffee provided at business meetings.

#### Receiving Gifts

It is important for all employees to exercise vigilance where gifts are offered from organisations (or their representatives) that are able to provide work, goods or services to the City Council.

An employee should politely refuse any personal gift offered to them or to any member of their family by any person or body (including Council Members) that has, or seeks to have, dealings with the council.

In particular, gifts of alcohol, hampers or other articles which could be misinterpreted by the public or assume a more serious importance in any form of future enquiry or investigation, should not usually be accepted.

#### Are there any exceptions?

Provided they are declared to and approved by Chief Officers or their nominated officers, gifts may be accepted if they are -

- small gifts of a promotional or advertising nature, which are frequently given to a wide range of people, e.g. calendars, diaries, mugs, mouse mats, pens and other similar articles frequently given at Christmas for use in the office. Such gifts should not exceed £25 in value;

- small gifts given on the conclusion of a courtesy visit to a factory or firm, of a type normally given by the organisation concerned, or where the contractor wishes to mark the completion of a new building, providing such gifts are made to a number of people on the same occasion as part of a normally accepted practice. Such gifts should not exceed £25 in value; and
- a small gift where refusal would cause needless offence and the giver is not seeking a decision or business from the Council but merely wishes to express thanks for advice, help or co-operation received. Such gifts should not exceed £25 in value.
- a gift received from a foreign visitor. These should generally be accepted since refusal might give offence. However, such gifts should not normally be accepted personally and should be treated in an appropriate fashion. The council should retain ownership and safeguard the gifts or display them. The council might also wish to give a small gift in return. Where a gift is personal, is valued at less than £25 and cannot be used by the council, an individual may accept it.

### Giving Gifts

Any purchase of a gift must be fully authorised and auditable.

Employees must not give gifts to any other party (including other Council employees) unless previously authorised by their Chief Officer or their nominated officer. The level of cost of the gift to be purchased is at Chief Officer or their nominated officers discretion.

All authorised gifts must be purchased using recognised corporate purchasing methods such as procurement cards.

### Receiving Hospitality

The main guidelines on receiving hospitality are “can it be clearly and positively seen to be in the interests of the Council to accept this particular hospitality?”

Where hospitality is offered to an individual employee, special caution is needed especially where the host is seeking to do business with the City Council or to obtain a decision from it.

It is essential that any suggestion of improper influence should be avoided and the question is one of very careful judgement. If you have any doubts then do not accept the hospitality.

Hospitality must not be accepted during the tendering period and you should also be aware of the possibility that the contractor/consultant offering hospitality may be tendering for a contract elsewhere in the Council. The tendering period is defined as being the point when the specification is first being drawn up or at the point when contact is first made with contractors whichever is the earliest.

The following examples of hospitality are generally acceptable:

- a working lunch provided to allow the parties to discuss business. Here judgement should be carefully exercised in that lavish provision could well raise questions. It is important that the level is appropriate to the circumstances;
- attendance in an official capacity at functions to which invitations have also been sent to employees of other local authorities or at official occasions relating to Westminster functions, e.g. official opening ceremonies;
- attendance in an official capacity at functions arranged by public utilities and public authorities; and
- an invitation to take part in a company jubilee or other anniversary celebration.

Any of the following facilities provided by companies or others who do business with the City Council or may wish to do so, are considered to be unacceptable offers of hospitality:

- the provision of holiday or weekend hospitality;
- hotel or theatre tickets;
- the use of a company flat or hotel suite;
- lunch with a developer whose application is awaiting consideration by the City Council;
- an invitation to join other company guests as spectators at sporting or other events;
- when a matter such as arbitration arises from a contract, any offer of hospitality should be refused even if, in normal circumstances, it would come within the categories suggested as acceptable.

### Giving Hospitality

No hospitality may be provided to any other party (including another council employee) by an employee unless authorised by their Chief Officer or their nominated officer

The Chief Officer or their nominated officer must provide a financial ceiling for the event and ensure that there is sufficient budget.

Unless totally unavoidable employees should not fund hospitality from their own money in such circumstances, should they occur, they should be recorded in the register.

### The Recording of Gifts and Hospitality

- Employees must ensure that they receive Chief Officer or their nominated officers approval before giving or receiving gifts and hospitality.

- Without exception all gifts and hospitality given and received, whether accepted or declined, must be entered in the designated corporate register immediately after the offer is made.
- With regards to these two requirements only where this is totally impracticable should retrospective approval be sought, and this must be done at the earliest opportunity
- Chief Officers must ensure that that their staff use the corporate automated WIRE online recording system for registering gifts and hospitality.
- On completion of the 2-page form by the staff member in question, an email will be sent to the their manager who will advise staff whether they should approve or reject it. Staff will be informed of their decision via email.
- The corporate Gifts and Hospitality register will be maintained and reviewed by the designated monitoring officer on a regular basis. This is currently the Audit Manager .
- A sample letter when declining gifts and hospitality is attached to this policy. The employee concerned must keep a copy of this letter to provide an audit trail.

### **Out of Work Activities and Declarations of Interest**

- This policy provides managers with guidance on when and how Council employees (including all staff employed in schools maintained by the Council, and voluntary aided schools) must declare personal interests in any Council business, decision, policy or procedure on which they may have some influence, and sets out the procedure for recording such interests.
- Employees' off-duty hours are their personal concern, but they must not subordinate their Council duties to their private interests or put themselves in a position where they may appear to conflict. Any outside activities, additional employment, or voluntary work must not, in the Council's view, be at the expense of the Council's interests, nor undermine public confidence in the Council's affairs.

### Key Principles

- The Council requires all its employees to maintain the highest standards of propriety in public service.
- Employees must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others, and must take all necessary steps to prevent a conflict arising between their Council duties and any outside interests they may hold.

Employees must not be involved in any decisions relating to discipline, promotion, or pay adjustments for any employee who is a relative, spouse or partner, friend or acquaintance (outside work), someone with whom they have

a business relationship etc.

All managers must ensure that all the Council's relationships with stakeholders, outside bodies and partners, are conducted to the highest standards of probity, and any written contract or agreement should include provisions to further this standard.

The Bribery Act 2010 which came into force on 1 July 2011 makes it an offence to request, agree to receive or accept an advantage of some kind in return for improperly performing , or allowing the improper performance of a function or activity where that function / activity is either of a public nature or done in the course of business. If the bribery offence is committed with the consent / connivance of a senior officer, then that person is also personally guilty of an offence. It is a serious criminal offence under the Bribery Act 2010 for employees to corruptly receive or give any gift, loan, fee, reward, or advantage for doing, or not doing, anything in connection with their duties. This also applies to showing favour or disfavour.

- The Council requires all employees to disclose any personal interests which may create a conflict of interest with their Council duties by completing a Declarations of Interests Form.
- The Council also requires all employees in specified Designated posts to complete a Declarations of Interests Form on taking up post, on any change in personal circumstances and on the next general Declaration Completion Date and every three years thereafter
- Failure to disclose such interests may lead to disciplinary action under the council's policies.
- In addition, in accordance with section 117 of the Local Government Act 1972, employees are legally required to disclose in writing any direct or indirect pecuniary interests in contracts to which the Council is/may/will be party. If an employee is aware that their spouse has a pecuniary interest, that interest will be regarded as an indirect interest of the employee and must therefore be declared. Failure to disclose such interests is a criminal offence.
- Should members of staff wish to report any concerns or allegations they should follow the procedure set out in the Whistleblowing Policy.

#### What are Designated Posts

- all posts at Band 5 or above level or their non-Reward equivalent
- any post referred to on a Directorate / Unit Scheme of Delegation for contract purposes; and
- any other post as determined by the Strategic Executive Board (SEB) member or their nominated officer where the post holder has a significant involvement in contract matters or other work which requires a high level of transparent probity.

## Special requirements for Designated Posts

EMT members or their nominated officer must ensure that post holders whose posts are designated as described above, are requested to declare personal interests on:

- appointment /promotion/transfer to a designated post,
- on any change in personal circumstances and
- on the next general Declaration Completion Date 01.04.16 and every three years after.

## How do employees declare personal interests

- Employees must complete a Declaration of Interests Form
- The form must be completed or resubmitted whenever circumstances change necessitating declaration of personal interests.
- Employees must submit the form to the appropriate EMT member
- Using the same process, EMT members will submit the Form to the Chief Executive. Similarly, The Chief Executive will submit the Form to the Leader of the Council.

## How this information is held?

- The Chief Executive, EMT members or their nominated officer, will use the information on Declaration of Interests Forms to compile and maintain a Register of pecuniary and personal interests for their area of responsibility.
- Chief Executive or EMT member will review Registers and consider whether any steps need to be taken to avoid conflict when relevant employees complete and resubmit forms
- Every endeavour is made to keep the registers up to date but the onus is on employees to ensure that their registration details are accurate and up to date.
- Information will be maintained and held on the register during the employees' employment and for six years thereafter.
- The Register will not be available for public inspection. However, subject to any exemptions which may apply, information contained within the register will be disclosed in accordance with the Freedom of Information Act 2001.

### What else must employees do

Employees whose duties involve tendering, outsourcing, partnerships, the awarding of contracts, dealing with contractors, etc. must:

- always award contracts on merit, by fair competition against other tenderers, and show no special favour to businesses run by, for example, friends, partners, and relatives;
- be aware of and follow the relevant Council procedures set out in the Code of Governance, the Constitution and any other relevant procedures;
- be clear on the separation of client and service-provider roles;
- not disclose confidential information to any unauthorised party or organisation;
- exercise fairness and impartiality when dealing with potential service providers;
- not show special favour to current or former employees or their partners, friends,
- relatives, or associates in outsourcing to businesses run by them in a senior or relevant managerial capacity;
- comply with the confidentiality arrangements of the Council's partner organisations; discuss any problems with their Director/Head of Service if they are unclear whether or not they may be compromised in relation to the awarding of contracts;
- In addition to completion of the declaration of interests form, employees must also declare any interests at meetings as appropriate.

### Declarations of Interests at Cabinet/Committee/Sub-Committee meetings

All Cabinet/Committee/Sub-Committee agendas contain a standard item as follows:-  
"To receive declarations by Members and Officers of the existence and nature of any personal or prejudicial interests in matters on this agenda".

Employees must:

- declare a financial or non-financial interest in an issue if they are advising or otherwise participating in debate (this does not negate the need to make a written notification as described before);
- such a declaration of interest should, wherever possible, be made at the beginning of the meeting if the necessity for such a declaration is foreseen; or at the earliest moment if it was not foreseen that an employee would be required to participate in advising/debating;



- if in doubt, consult the Head of Legal and Democratic Services or their representative well in advance of the meeting in question.

In addition, Officers should be aware that there is no de minimis rule as such in considering pecuniary interests.

However, where a Member has an interest, by reason only of a beneficial interest in securities of the company or other body and the total nominal value of those securities does not exceed £25,000, then the Member is not obliged to declare the interest.

The limit of £25,000 could be used by way of analogy for determining whether an officer, should continue to advise on the matter in question. If a Member's ability to vote is determined by this threshold, it seems sensible for Officers to be governed by the same threshold.

## Conferences

Officers are sometimes asked to address conferences or make presentations about their area of work. If you receive such a request you must consult your Chief Officer **before accepting**. Section 117(2) of the Local Government Act 1972 provides that an officer of a local authority "*shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.*"

Contravention of this provision is a criminal offence.

There may be circumstances where it may be appropriate to accept a fee or payment when an officer's own time and resources are being used but such an occasion would require specific authority from your Chief Officer.

## Whistleblowing Policy

The City Council is committed to achieving the highest possible standards of service and ethics in public life and in all its activities. Council employees are encouraged to bring to their managers' attention any misconduct, suspected misconduct, malpractice or illegal acts or omissions by Members, employees, or by members of the public in relation to the services they receive from the City Council. The Whistleblowing policy has been developed so that employees will know how to raise concerns in the right way at an early stage, and managers understand their responsibilities in relation to allegations of misconduct and impropriety. For the avoidance of doubt, reference to Council employees includes all staff employed in schools which are maintained by the Council, including voluntary aided schools.

Employees who make a disclosure reasonably believing that:

- (a) a criminal offence has been committed, is being committed or is likely to be committed;

- (b) a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject;
- (c) a miscarriage of justice has occurred, is occurring or is likely to occur;
- (d) the health or safety of any individual has been, is being or is likely to be endangered;
- (e) the environment has been, is being or is likely to be damaged; or
- (f) information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed
- (g) the disclosure is in the public interest

are protected by law (under the Public Interest Disclosure Act 1998 as amended by the Enterprise and Regulatory Reform Act 2013) from any victimisation for having raised these issues.

Employees of the Council's partners and contractors are also encouraged to use these procedures to bring any misconduct, or suspected misconduct, malpractice or illegal acts or omissions by Members, the Council's employees, or by partners'/contractors' employees in relation to the provision of services on behalf of the Council, to the attention of appropriate Council managers. Council partners and contractors will be required to bring this procedure to the attention of their employees.

This policy should be read in conjunction with the Council's Anti-Fraud, Bribery Act and Corruption Strategy.

Employees who have concerns or complaints in relation to their own contracts of employment or terms and conditions should raise a grievance under the council's Dignity at Work policy.

#### When should this policy be used?

This policy should be used when employees have concerns that the interests of others or the Council (and therefore its residents) are at risk e.g.

- Criminal activities and any activities, suspected or ongoing, which may break the law (including fraud, any form of child abuse, or the abuse of other vulnerable clients)
- Disregard for legislation, Council rules, policies and procedures
- The mistreatment of a service user which may endanger the health and safety of that service user.
- This list is not exhaustive

#### What Protection will employees have?

Employees raising issues, and managers investigating them, will suffer no detriment as a result, of the disclosure. The City Council will not tolerate any harassment or victimisation of a whistleblower (including informal pressures), and will treat this as a serious disciplinary offence, which will be dealt with under the Disciplinary Code. An employee whose concerns are raised under this procedure but referred for

investigation under another procedure (e.g. the anti-fraud policy) will receive the same protection from victimisation under the Public Interest Disclosure Act 1998.

#### How will any concerns raised under this policy be dealt with?

- An employee can raise concerns orally or, preferably, in writing.
- Any concerns raised by an employee will be dealt with promptly.
- The concerns will be considered as thoroughly as possible by the most relevant person, whether this be an internal manager or some appropriate external official or organisation delegated by the Council.
- Employees have the right to seek assistance and advice from trade union representatives or Council colleagues; and to be accompanied by a trade union representative or Council colleague at all meetings held under this procedure.
- The Council will not tolerate complaints which are deliberately made without substance, or are frivolous or malicious. Such cases will be dealt with very seriously and formal disciplinary action may be considered under the Council's Disciplinary Code.

This policy does not restrict employees' rights to raise their concerns outside the Council

(e.g. the Audit Commission, the Environment Agency, the Health and Safety Executive or the police), but is intended to facilitate speedy internal investigation and resolve employees' concerns, so that they do not feel the need to refer to external agencies.

#### What must managers do?

You must:

- deal promptly and fairly with any concerns raised under this policy in accordance with the procedure set out in Appendix 1;
- make sure that the employee's concerns are appropriate for consideration under this policy as against another procedure (e.g. Council's anti-fraud policy, strategy and response plan; grievance or disciplinary procedures). If the concerns are not appropriate to this policy, refer them to the correct procedure;
- immediately refer matters concerning fraud and/or corrupt acts to the Fraud Team;
- support and facilitate the employee in pursuing whistleblowing concerns;
- maintain confidentiality throughout any proceedings;

- as far as possible, withhold the identity of the employee who has raised the concerns, if the employee has so requested. (Managers may be obliged in some circumstances to reveal the name of the employee who raised concerns, in which event the situation should be discussed with the employee before proceeding.); keep the employee apprised of progress in investigating and resolving their concerns;
- advise the employee that they have the right to bring a trade union representative or a Council colleague to any meetings under this policy;
- implement any actions/recommendations arising from the investigation into the employee's concerns;
- not allow the employee to suffer any detriment as a result of raising their concerns (to do so would be unlawful under the Public Interest Disclosure Act 1998); and investigate anonymous complaints as far as practicable.

What should an employee that has concerns covered by this policy do?

You must

- raise concerns (orally or in writing) in confidence with their managers (or their manager's manager if it is inappropriate to raise the concerns with their immediate line-manager) at the earliest possible moment. In exceptional circumstances, employees may raise concerns with a manager who is outside their service; in these cases they should approach:
  - the Director of Finance
  - the Head of Legal and Democratic

(On rare occasions (e.g. employees' want to report issues involving more than one department), concerns can be raised directly with the Chief Executive or the Chairman of the Council's Standards Committee.)

or

- use the Fraud and Whistleblowing Hotline (0800 028 9888) to report concerns; immediately refer matters concerning fraud and/or corrupt acts to the Fraud Team (fraud hotline on 0800 028 9888; on-line (If there is any doubt, proceed under this procedure and the manager will refer the matter if appropriate.);
- never carry out their own investigation;
- assist with any investigation into their concerns, including attendance at meetings, replying to requests for information, and providing signed statements as appropriate;
- immediately pass any evidence to the investigating manager/ official; follow the stages of the procedure in sequence;

- always act honestly when raising and pursuing concerns through this policy; and inform the investigating manager/official if they have a personal interest in the matters under investigation.

Employees are encouraged to raise “whistleblowing” concerns in the first instance via the Whistleblowing policy rather than going straight to external agencies. Reporting concerns to e.g. the press, may seriously undermine any investigation into the issues of concern. Advice can be obtained from a trade union representative or “Public Concern at Work” (phone: 020 7404 6609; web: [www.pcaw.co.uk/](http://www.pcaw.co.uk/)), an independent charity which gives advice on how to raise concerns about serious malpractice at work.

## **The Council's E-mail, Internet and Intranet Usage Policy**

This section highlights key HR aspects regarding the use of the Council’s e-mail, Intranet and Internet facilities. For detailed information about the standards required for e-mail, intranet and internet use, [click here](#)

### Authorised use of the Council’s E-mail, Intranet and Internet facilities

- The Council’s e-mail, Intranet and Internet facilities are provided for use in connection with Council business only.
- Reasonable personal use of the e-mail and Internet systems is however allowed subject to compliance with the current e-mail /Internet use Codes of Practice and guidelines (see above). The Council considers the expectations set out in these Codes of Practice and Guidelines mandatory.
- Use of the Council’s e-mail, Intranet and Internet facilities for private business purposes is expressly forbidden.
- Authorisation of the Council’s e-mail, Intranet and Internet facilities will be withdrawn from any person who is found to be misusing them.

### Monitoring of e-mail and Internet use

- All Internet usage is monitored and logged by the Council.
- E-mails with a non-business content should be flagged as “personal” and will not normally be subject to manual monitoring, but will still be subject to automated checks.
- not read other people’s e-mails without their express permission, except when a colleague is unexpectedly away and access is required by their manager to maintain service .

### What must managers do?

- Investigate any e-mails containing offensive material which are brought to their attention.
- Investigate any apparent misuse of the Council's e-mail, Intranet and Internet facilities.
- Establish local reasonable practices for personal use of e-mail/Internet facilities by staff; e.g. during lunch-breaks or after work-time.
- Monitor the personal use of systems in the same way as monitoring reasonable personal use of telephones.

### What must employees do?

- You must comply with the Council's Codes of Practice and Guidelines on e-mail and internet use
- You must make sure that personal e-mail and Internet use does not interfere with the performance of your duties, and does not take priority over work responsibilities.

## **Social Media**

Social media is a broad term and includes any form of interactive online channel and social networking tool such as, Twitter, Facebook, LinkedIn, Blogs, discussion forums on the Intranet (The Wire) and the Internet, video networks such as YouTube and Vimeo, Flickr and anywhere else that allows you to publish comments.

### Key Principles

- The Council recognises that social media sites provide a useful tool for communication and are accessed widely by many employees, both for work and non-work purposes. We do not as a result restrict access to these sites.
- If you have been authorised by your manager to use social media for work purposes, you are clearly governed by the council's policies and procedures in everything you post.
- The lines between public and private, and personal and professional are blurred in online social networks. You should therefore recognise the potential for damage to be caused (either directly or indirectly) to the council in certain circumstances through your personal use of social media when you can be identified as a WCC employee.
- To safeguard yourself and the council, unless you use social media for work purposes exclusively, you should either create separate profiles for work and personal use, or if you use just one account for both, you must use a disclaimer

which says: “The postings on this site are my own and don't necessarily represent the council's position or opinions”.

#### Employees must

- Only disclose and discuss publicly available information
- Be careful about what you say and how it might be interpreted, particularly discussing topics which can be inflammatory, eg politics, religion etc, and show respect for other's opinions.
- Keep privacy settings and controls up to date and be aware that your personal life could become subject to scrutiny by service users, clients (and their families) and the public if you can be identified as a WCC employee.
- Remember it is difficult to be sure that material you have posted, then deleted on social media has not already been re-tweeted etc so think before you post.
- Respect copyrights. Always credit other's work, and make sure you have the right to use something with attribution before you publish. Just because something's online doesn't mean it's OK to copy it.
- Contact the Communications team if you want to use social media to promote council services. They can provide advice and guidance on the best way to do this.

#### Employees must not

- Use Social media sites for contacting clients/ service users unless this has been authorised by your manager
- Use the council's own logo for any kind of personal use
- Offer your opinion as that of the councils or make generalised comments about the council's decisions or interests
- Make defamatory remarks about the Council, colleagues or service users or misrepresent the Council by posting false or inaccurate statements about the work of the Council
- Publish any material or comment that could undermine public confidence in you as an employee of the Council and/or in position of trust within the Community Disclose any information that is confidential to the Council or any third party or disclose personal data or information about individuals, colleagues or service users,
- Do anything that could be considered discriminatory against, or bullying or harassment of, any individual, for example by:

- making offensive or derogatory comments relating to sex, gender reassignment, race (including nationality), disability, pregnancy, sexual orientation, religion or belief or age;
- using social media to bully a work colleague or other employee
- posting images that are discriminatory, offensive (for example inciting racial hatred etc) or which constitute a criminal offence (for example images or pseudo images of child abuse)
- Use external blogs, social networks or other tools for internal communications to air your differences with colleagues.
- Discuss your colleagues, or post pictures of them or any clients or service users on a council social media site, without their permission.
- Ever allow a client /service user to become a 'friend' on a social media site, or post pictures of them on such sites

### Personal Use

Employees may access social media sites on work premises for their own use, in accordance with the council's E-mail and Internet Use Policy, which requires you to use these resources reasonably, and in a manner that does not interfere with your work, is not inappropriate or excessively accessed.

Examples of reasonable use include:

- re-tweeting content from the WCC account on your own Twitter account participating in discussion forums on the Wire
- updating Facebook status/ posting messages during a lunch break
- Employees' use of social media sites will be monitored in line with the Council's Policy on E-mail and Internet Use Policy.

### Using social media to engage with children and young people

Employees must not use social media to communicate and engage with children and young people as part of their work unless this has been authorised by their manager. If you want to engage with young people to promote council services or activities please contact the Communications team for advice and guidance.

[Click here](#) for guidance on the use of such sites for employees who are required to maintain statutory registration with their professional body.



## SECTION 4 - INFORMATION

### Information for Members

It is essential that Members have the information they require to enable them to fulfil their policy formulation, monitoring and ward representative roles. Members receive a wide variety of information from Council Officers, including:

- **Agenda, Reports and minutes** of the committees they serve on or any other they request (there may be limitations on the issuing of confidential reports)
- **Weekly Information Bulletin (known as the “WIB”)**. This is produced each Friday and provides up to date information on committee decisions and on general matters of interest to Members and Officers. It is a very useful way of getting information to all Members. Whenever possible information being made for all Members should be circulated through the WIB rather than separately. Information for the WIB should be passed to Members Support (ext 3255).
- **Operational information** such as the weekly list of planning and licensing applications received.
- Briefing notes on **‘information’ items** which are circulated to all Members of the relevant committee separately from agenda. The circulation is undertaken by Committee and Governance Services (x 3134) please contact them if you require further information or advice.
- As far as possible information to all Members is placed on the Members website, contact Janis Best, ext 3255 to place items on the Member’s website.
- If requested Chief Officers will as far as reasonable and practicable hold periodic briefings for groups of Members from either party (either together or separately) about the substantive issues facing the department or on subjects identified by Members.
- Officers should note that a copy of any factual information supplied to a Member in response to a request, must also be sent to the Cabinet Member. This provision relates to all factual information supplied except matters which relate personally to a Member or their casework. The procedure ensures that Cabinet Members are aware of the issues of general concern to other Members.
- Westminster City Council is committed to open government. In July 1995 the Policy and Resources Committee agreed a policy statement about access to information.

### Policy

“Information and documents should be made available on request by Officers to Members unless (a) there is a clearly and properly justifiable reason for declining access and (b) the Member in question cannot establish a legal right to the information or documentation”.

The following sections provides guidance on how Officers should treat the information they receive.

**Other relevant documents:** This information section should be read in conjunction with Standing Orders and the Contracts Code.

## **When is Information Confidential?**

As officers, you have access to a wide variety of information. Guidance to help you identify how any particular piece of information should be treated is available from the Committee and Governance Services (x 3160).

## **Information Procedure Rules in the Constitution**

1. With the full implementation of the Freedom of Information Act 2000 on 1<sup>st</sup> January 2005, the Government wanted to ensure that the Local Government Access to Information rules were compatible with both the Data Protection Act 1998 and the Freedom of Information Act 2000.
2. Two new sets of regulations relating to the public's right of access to meetings and the disclosure of exempt information come into force on the **1<sup>st</sup> March 2006**.
3. The 2006 Regulations changed Part 5A (Access to Meetings and Documents of Certain Authorities, Committees and Sub-Committees) of and Schedule 12A (Access to Information: exempt information) to the Local Government Act 1972 both of which are concerned with access to meetings and documents of principal councils and certain committees and sub-committees of those councils.
4. Part 5A, Section 100 A(4) (Admission to Meetings of Principal Councils) of the 1972 Act permits a principal council to exclude the public from a meeting whenever it is likely that there would otherwise be a disclosure of exempt information to the public. Exempt information is defined in Section 100 1 as the descriptions of information which are, for the purposes of Part 5A for the time being specified in Schedule 12 A to the 1972 Act. The 2006 Regulations substituted a new Schedule 12A. In Part 2 of the new Schedule 12A, some of the previous qualifications relating to exempt information are replaced by a public interest test – see (c) below.
5. Schedule 12A now comprises of the following paragraphs:  
Part 1
  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 in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or 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 upon a person; or (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## **Part 2**

### **Qualifications to the above exempt information:**

- (a) Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under – (a) the Companies Act 1985 (b) the Friendly Societies Act 1974 (c) The Friendly Societies Act 1992 (d) The Industrial and Provident Societies Act 1965 – 1978 (e) The Building Societies Act 1986 (f) The Charities Act 1993.
- (b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (c) Information which – (a) falls within any of paragraphs 1-7 above; and (b) is not prevented from being exempt by virtue of paragraph (a) or (b) above is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (d) The Best Practice Guide to Report Writing in Westminster will be updated to reflect the new regulations and future corporate report writing workshops will include a briefing on the new provisions. In addition advice can be sought at any time from the Committee and Governance Team (3160).

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## Partnership Working

- 39.1** Partnership working has become an ever increasing part of the Council's work. For example, Section 4 of the Local Government Act 2000 requires every local authority to prepare a strategy for promoting or improving the economic, social and environmental well being of their area and contributing to that achievement of sustainable development in the UK.
- 39.2** In preparing or modifying their sustainable community strategy a local authority must consult and seek participation of such persons as they consider appropriate. The City Council's Local Strategic Partnership (Westminster City Partnership) satisfies these duties.
- 39.3** It is recognised that Partnerships, both formal and informal, are playing a significant part in the way the Council consults and works with stakeholders to facilitate joined-up planning and delivery of services. In accordance with guidance issued by the Audit Commission, the Council has produced a Partnership Manual, which sets out processes for Members and Officers relating to partnership working.

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## Outside Bodies

- 41.1** The Council defines outside bodies as a body which does not exercise a Council function, but which operates within the City of Westminster. Such a body is one which seeks a representative from the Council.
- 41.2** Appointments to outside bodies will be administered by the Head of Governance and Councillor Liaison with appointments and nominations made in accordance with the wishes expressed by the relevant party chief whip.
- 41.3** A list of bodies is attached.

### **DETAILED BACKGROUND ON OUTSIDE BODIES AND THE INSURANCE FOR THOSE SERVING ON OUTSIDE BODIES**

- 41.4** The Council defines outside bodies as a body which does not exercise a Council function, but which operates within the City of Westminster. Such a body is one which seeks a representative from the Council.
- 41.5** Appointments to outside bodies will be administered by the Head of Governance and Councillor Liaison with appointments and nominations made in accordance with the wishes expressed by the relevant party chief whip. A list of bodies is attached.
- 41.6** Bodies eligible for the list are those that:
- Invite representation from boroughs across London that we wish to contribute to.
  - We are a member organisation of and wish to contribute to.
  - Are administered through the Council and need Member representation on their boards.
- 41.7** There are a number of outside bodies of varying descriptions to which the City Council customarily nominates members and officers. In a few cases the City Council's representative merely acts as an "observer" in order to represent the City Council's interests and does not take part in decision making; for the most part such "observers" are covered by the City Council's existing Indemnity given to members and officers and by the Council's public liability insurance. Generally the number of outside bodies to which the Council nominates Members has reduced in recent years and the current list is attached as an Appendix to this section.
- 41.8** In certain cases, however, City Council members and officers act as directors or trustees or members of the management committees of outside bodies or otherwise play an active role in the affairs of the body in question, often because the constitutions of such bodies stipulate that such Council nominees must act in such capacities. Those who act as directors, trustees or members of the management committee owe a "fiduciary duty" to the outside body in question. In certain very limited circumstances they may be personally liable for the debts of the bodies on which they serve, or in relation to third party claims brought against those bodies.

**41.9** the directors of such companies will be personally liable only in exceptional circumstances, such as for deliberate or reckless breach of trust or knowingly causing the company to act beyond its powers or to trade whilst insolvent. Much the same is true in relation to charitable trustees. Many charities are themselves limited companies, normally "companies limited by guarantee" whose members' personal liability is ordinarily restricted to the sum of one pound (£1) which they have guaranteed to contribute towards the payment of the company's debts. Charitable trustees and company directors can generally avoid personal liability by being careful to take appropriate professional advice before making decisions. However, they may be personally liable (without limit) if they deliberately or recklessly take actions in breach of trust or without having taken appropriate advice.



## Appendix 1

### INDEMNITY

1. The City Council will, subject to the conditions, limitations and exceptions below, indemnify all members (which expression shall hereinafter be deemed to include co-opted members of any Council committees) or employees of the Council against any damages, costs or legal expenses including those incurred pursuant to proceedings under Part 3 of the Local Government Act 2000) which any such member or employee may be ordered to pay or may reasonably have incurred arising from activities carried out on behalf of the Council if the member or employee acted in good faith and honestly believed that the act or omission complained of was within their power and that their duty as a member or employee or (in the case of functions exercised otherwise than in the capacity of member or Council employee) performer of the function in question with the approval or at the request or for the purposes of the Council, required or entitled them to do or omit to do it. Such indemnity shall apply to any liability of any member or employee as the City Council's representative or nominee on an outside body and to any employee who in connection with their employment with the City Council provides an administrative, technical, professional or other service to any person or body outside the City Council.

2. For avoidance of doubt this indemnity will apply to existing and former member and employees in respect of acts and omissions whilst they were members or employees.

3. Subject as aforesaid the City Council will not itself make any claim against any member or employee for any loss or damage occasioned by any neglect, act, error or omission committed by an individual arising from the pursuit of their duties on behalf of the City Council (or on behalf of any outside body to which they have been appointed by or with the written approval of the Council and as representative or nominee of the City Council) whilst acting within the scope of their authority.

Conditions and Limitations:

(1) This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

(a) Fraud, dishonesty, deliberate wrongdoing or recklessness, or any criminal offence on the part of a member or employee (except where the criminal offence is an offence under the provisions of the Health and Safety at Work Act etc 1974 or relevant statutory provisions within the meaning of that Act in which case the indemnity will continue to apply).

(b) Any action, neglect, error, or omission by an individual otherwise than in the course of their duty.

(c) Activities which are ultra vires the City Council, the body in question or the individual save to the extent that at the time of the activity concerned the individual bona fide and reasonably believed that the activity was intra vires.

## Appendix 2

### Indemnity

The City Council will, subject to the exceptions below, indemnify all Councillors or employees of the Council against any damages, costs or legal expenses which any such Councillor or employee may be ordered to pay or may reasonably have incurred arising from activities carried out on behalf of the Council if the Councillor or employee acted in good faith and honestly believed that the act complained of was within their power and that their duty as a Councillor or employee required or entitled them to do or omit to do it. Such indemnity shall apply to any liability incurred by any Councillor or employee as the City Council's representative on an outside body and to any employee who in connection with their employment with the City Council provides an administrative, technical, professional or other service to any person or body outside the City Council.

For avoidance of doubt this indemnity will apply to existing and former Councillors and employees in respect of acts and omissions whilst they were Councillors or employees.

Except as mentioned above the City Council will not itself make any claim against any Councillor or employee for any loss or damage occasioned by any neglect, act, error or omission committed by an individual arising from the pursuit of their duties on behalf of the City Council whilst acting within the scope of their authority.

#### Exceptions:

- (1) This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
  - a. Fraud, dishonesty or any criminal offence on the part of a Councillor or employee (except where the criminal offence is an offence under the provisions of the Health & Safety at Work Act 1974 or relevant statutory provisions within the meaning of that Act in which case the indemnity will continue to apply).
  - b. Any neglect, error or omission by an individual otherwise than in the course of their duty.
  - c. Activities which are "ultra vires" i.e. outside the legal powers of the City Council, save to the extent that at the time of the activity concerned the individual bona fide and reasonably believed that the activity was intra vires, i.e. within the legal powers of the City Council.
  - d. Liability in respect of any surcharge and Sections 17 and 18 of the Audit Commission Act 1998. Provided that where upon final determination of an objection to the Auditor the Council is satisfied that a person the subject of an objection was not blameworthy it will meet the legal costs reasonably incurred by such a person in connection with such objection.
- (2) This indemnity will not apply if a Councillor or employee without the written authority of the Director of Law admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution.

- (3) This indemnity will not apply where a Councillor or employee has been appointed to and is acting in the capacity of:
- a. a director on a board of directors of a company; or
  - b. a trustee of a trust
  - c. a voting member of a management committee of another outside body

### OUTSIDE BODIES Appendix 3

Name of Organisation
Central and North West London NHS Foundation Trust
Cross River Partnership
Edward Harvist Trust Charity
Greater London Employment Forum and Greater London Provincial Council
Greater London Reserve Forces and Cadets Association
Imperial College – Court
Local Government Information Unit
London Councils (Grants Committee)
London Councils (Joint Pensions Committee)
London Councils (Leader's Committee - Executive)
London Councils (Transport & Environment Committee)
London Road Safety Council
Paddington Welfare Charities
Sir John Hunt's Gift Committee
Standing Advisory Council for Religious Education
Westminster Faith Exchange

# THE WESTMINSTER CITY COUNCIL PETITION SCHEME

Anyone who lives, works or studies in the City of Westminster can organise and sign a petition and trigger a response. This includes under 18s. The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

Petitions should be about a service which the council provides either by itself or which it shares the responsibility for with a partner organisation.

The Council welcomes e-petitions which are created and submitted through its website. Alternatively, you can submit a petition in hardcopy and, if requested, they can be presented to an ordinary meeting of the council by a Councillor on the petitioners' behalf. Ordinary Council Meetings take place at least four times a year.

All petitions sent or presented to the council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition.

## **41.1** What to include in a petition

- a brief title.
- a short statement covering the subject matter of the petition and stating what action you wish the council to take.
- the contact details of the petition organisers, including an address, so the council can respond to the petition once it has been formally submitted (the contact details will not be displayed on the website).
- the name and address of everyone who has signed the petition.
- the address of either place of study or work (if home address is not in Westminster).

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

## **41.2** Signatures

There is no minimum or maximum number of names needed for a petition. Once it has been submitted to the council, the signatures will be public documents which any member of the public can see.

Signatures can be collected in online or hard copy format (or both), though once someone has signed a petition in one format, they cannot sign it in another.

If you are signing an online petition, you will need to provide your name, postcode of your home or workplace in Westminster, indicate whether you live, work or study in Westminster and give an email address. This will enable the council to determine that the signatures are genuine and to write a response to the petition. Due to the possibility of fake signatures being added we only allow one signature per email account.

### **500+ signatures**

If a petition receives more than 500 signatures, it will be debated by a meeting of the Cabinet. The petition may also be presented as part of the public item at the next Ordinary Full Council meeting after the petition closes.

### **100+ signatures**

If a petition reaches over 100 signatures it is eligible to be presented as part of the public participation item at the next Ordinary Full Council meeting after the petition closes.

## **41.3 Steps after petition has been submitted.**

Once your petition has been submitted to the council it will be passed to the relevant Head of Service for consideration. The form of the council's response will depend on how many people have signed the petition and whether it has been presented formally by a councillor, but could include:

- considering the petition at a Cabinet meeting.
- considering the petition at an Ordinary Full Council
- writing to the petition organiser setting out the council's views about the request in the petition
- submitting a formal report to the Executive/Executive Member for decision
- taking the action requested in the petition
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by one of the council's Policy and Scrutiny Committees\*
- in all cases where a petition has been presented by a councillor to an ordinary council meeting the relevant Chief Officer shall, within 28 days of the date of the meeting, (sooner if possible) report to the relevant Cabinet Member or Committee setting out proposals for the formal response to the petition and also advise the petition organiser.
- petitions, which do not trigger a debate at a Cabinet meeting or have not been presented by a councillor to an ordinary council meeting, shall be acknowledged by the Governance and Councillor Liaison Team and referred to the relevant Chief Officer who shall advise the petition organiser, within 28

days, but sooner if possible, of the council's response, including the relevant Cabinet Member(s) and Ward Members. The Head of Governance and Councillor Liaison will inform the relevant Cabinet Member(s) and Ward Members that the petition has been received.

\*Policy and Scrutiny committees are committees of councillors who are responsible for scrutinising the work of the council - in other words, the policy and scrutiny committee has the power to hold the council's decision makers to account. Every person who signs an e-petition will receive an email detailing the response to the issues raised after the period for collecting signatures has closed. In the case of a hardcopy petition, the response will be forwarded to the petitioner organiser. The Governance and Councillor Liaison will also contact the petitioner to advise if their Petition has met any of the threshold.

Other procedures apply if the petition is one of the following:

- planning or license application
- statutory petition (for example requesting a referendum on having an elected Mayor)
- a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates

Further information on the procedures for planning and licensing and how you can express your views is available on the planning and licensing pages.

For information on any other procedures please contact Governance and Councillor Liaison on 07870548348 or email [governanceandcouncillorliaison@westminster.gov.uk](mailto:governanceandcouncillorliaison@westminster.gov.uk)

To ensure people know what we are doing in response to the petitions we receive the subject details of all the petitions submitted to us will be published on our website, except in cases where this is considered to be inappropriate. It should be noted that petitions presented to the council are public documents and any member of the public can ask to see a copy.

#### **41.4 Cabinet Debates**

If a petition contains more than 500 signatures it will be debated by a meeting of the Cabinet. It will be placed on the agenda of the next suitable Cabinet meeting.

Following receipt of such a petition the relevant chief officer will be asked to prepare a report on the subject of the petition which shall be circulated with the agenda of the Cabinet meeting, together with a copy of the petition.

The Cabinet will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. The petition organiser will receive

written confirmation of this decision. This confirmation will also be published on our website.

The option to present the petition at Full Council will also be available. In this case after the Cabinet discussion, either before or after the Full Council meeting, depending on dates.

#### **41.5 Officer Evidence**

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision. Committee members will ask the questions at this meeting but you will be able to suggest questions to the chair of the committee by contacting Governance and Councillor Liaison on 07870 548 348 up to five working days before the meeting.

#### **41.6 Petitions at an Ordinary Full Council**

Any petition presented at an Ordinary Full Council meeting will get an oral response, on the night, from the relevant Cabinet Member or Committee Chair, followed by a written response setting out what was said at the meeting and serving as the official response. If a petitioner does not want to present it publicly it will be sent to the relevant Cabinet Member for a written response. The procedure for hearing a petition at an Ordinary Full Council meeting can be found in the Public Participation Protocol on the Council's website and in Appendix 1.

#### **41.7 E-petitions**

The council welcomes e-petitions which are created and submitted through its website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and email address and indicate whether they live, work or study in the City.

E-petitions presented to the Council which are hosted on alternative websites and not that of the Council's will be rejected so that signees can be verified as living, working or studying in the City. E-petitions can run for a maximum of 6 weeks but you can choose a shorter timeframe. You can run an online petition at the same time as a paper petition, combining the two before submitting them to the council, although repeat names should be omitted by the petition organiser. Some people prefer this option as they find it easier to have one they can hand around to friends and family. Two versions of the same e-petitions will not be publicised by the council at the same time.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish your petition for



some reason, we will contact you within this time to explain why. You will be able to change and resubmit your petition if you wish.

When an e-petition has closed for signature, in the same way as a paper petition, we will write to you within ten working days to let you know what we plan to do with it. If you would like a Councillor to present your e-petition to a meeting of the Council please contact Committee and Governance Services via the contact details above five working days before the petition closes.

### **How do I 'sign' an e-petition?**

You can see all the e-petitions currently available for signature here ([Current E-Petitions](#))

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address and indicate whether you live, work or study in Westminster. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

### **41.7 Hard copy petitions**

These can be sent to The Head of Governance and Councillor Liaison, Westminster City Council, 64 Victoria Street, London, SW1E 6QP. Lead petitioners can also ask one of their local Councillors to submit the petition on their behalf to a meeting of Full Council.

### **41.8 Appealing the council's response**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's relevant Policy and Scrutiny committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

The committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation or making recommendations to the council executive.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

## **APPENDIX 1**

### **PROCEDURE FOR HEARING PETITIONS AT MEETINGS OF THE ORDINARY COUNCIL MEETING**

The Petitions Team will contact the petitioner once the petition closes to advise if it has met the threshold, of over 100 signatures, and explain the process if they would like to present this at an Ordinary Full Council meeting.

Any petition presented at an Ordinary Full Council meeting will get an oral response, on the night, from the relevant Cabinet Member or Committee Chair, followed by a written response setting out what was said at the meeting and serving as the official response.

If a petitioner does not want to present the petition publicly it will be sent to the relevant Cabinet Member for a written response

All requests to present a petition which has reached the threshold must be submitted via the online form available on the Council's website.

If there are any questions about the process or attendance at the Council meetings these can be sent to [public.speaking@westminster.gov.uk](mailto:public.speaking@westminster.gov.uk). However, a request for presenting a petition will only be accepted for presentation at Full Council if submitted via the form.

Petitions may only be submitted if they meet the threshold of over 100 signatures and close within a set window in advance of an Ordinary Full Council meeting. This window opens 21 days before the meeting takes place and closes seven days before the meeting takes place.

#### **How questions or petitions will be heard at the Ordinary Full Council meeting**

All participants must be able to attend the Full Council meeting, in person or (where unavoidable circumstances dictate) virtually, to present their petition, slots are not able to be passed to others, but can be moved to a later meeting if reasonable.

Ordinary Full Council meetings take place at Old Marylebone Town Hall, 97-113 Marylebone Road, NW1 5PT; with the meeting commencing at 7pm.

Attendees will be asked to arrive at the location by 6.40pm at the latest so that they can be met, briefed and seated.

30 minutes will be made available for the item, towards the start of the meeting.

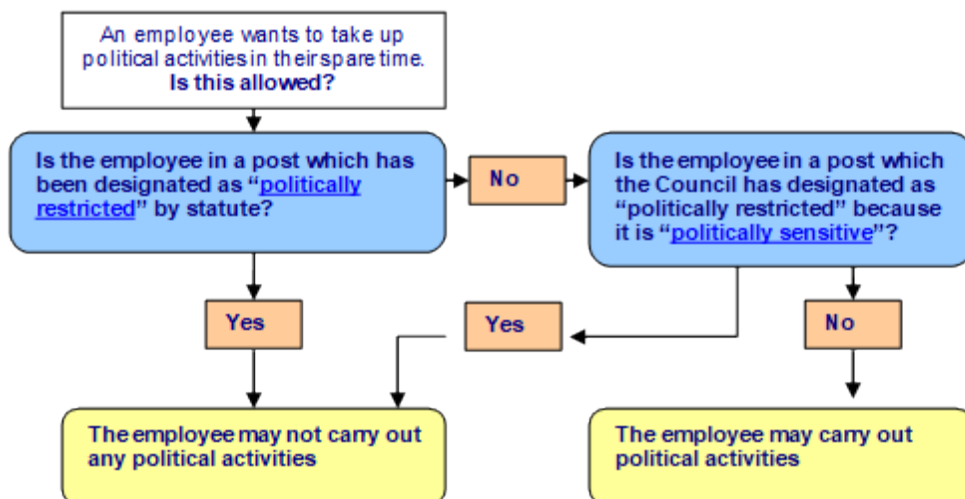
Each petitioner will have up to two minutes to present their petition and the relevant Cabinet Member or Committee Chair will have up to two minutes to respond. The two minutes should be used to explain the subject of the petition only, nothing else, even if it is considered a related matter. The Lord Mayor has the right to stop any speech on a topic which is not considered relative to the petition presented.

Petitioners will be able to stay, after the item, for the remainder of the Council meeting, if they so wish, but they will be asked to move to the public gallery.

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**CHAPTER 10 – OFFICER EMPLOYMENT**  
**RULES**

# 1. POLITICALLY RESTRICTED POSTS POLICY



## 1.1. SUMMARY

- (1) In order to avoid any potential conflict of interests, and to comply with Local Government Regulations, some posts within the council are designated politically restricted posts. This means that there are constraints imposed on those postholders from undertaking political activities.

*(see Part 1 Local Government and Housing Act 1989, as amended)*

## 1.2. WHICH POSTS ARE DESIGNATED AS “POLITICALLY RESTRICTED” UNDER PART 1 LOCAL GOVERNMENT AND HOUSING ACT 1989, AS AMENDED

<b>Category 1 The Head of Paid Service</b>
<ul style="list-style-type: none"> <li>• The Chief Executive</li> </ul>
<b>Category 2 Statutory Chief Officers</b>
Posts fulfilling the following functions: <ul style="list-style-type: none"> <li>• The Director of Children’s Services</li> <li>• The Director of Adults’ Services and</li> <li>• The Director of Finance</li> </ul>
<b>Category 3 Non-Statutory Chief Officers</b>

<ul style="list-style-type: none"> <li>• Any person for which the Chief Executive is directly responsible e.g ELT members</li> <li>• Any person, who as respects all or most of the duties of his post, is required to report directly or is directly accountable to either the Chief Executive, the Council or any committee or sub-committee.</li> </ul> <p><i>(This category does not apply to posts whose duties are solely secretarial or clerical or who have other support functions)</i></p>
<p><b>Category 4 Deputy Chief Officers</b></p> <ul style="list-style-type: none"> <li>• Persons who, as respects all or most of the duties of their post is required to report directly or is directly accountable to one or more of the statutory or non-statutory Chief Officers.</li> </ul> <p><i>(This category does not apply to posts whose duties are solely secretarial or clerical or who have other support functions)</i></p>
<p><b>Category 5 The Monitoring Officer</b></p> <ul style="list-style-type: none"> <li>• The Executive Director of Corporate Services</li> </ul>
<p><b>Category 6 Assistants to political groups</b></p>
<p><b>Category 7 Officers to whom powers are delegated</b></p> <ul style="list-style-type: none"> <li>• Persons whose posts have delegated powers under the City Council's delegation scheme. All SLT members have delegated powers although they may be included in other categories.</li> </ul> <p><i>(This category does not apply to posts of authorised officers who are exercising delegated powers on behalf of a SLT member.)</i></p>
<p><b>Category 8 Officers holding “Politically Sensitive Posts”</b></p> <ul style="list-style-type: none"> <li>• Those persons who either give advice on a regular basis to the Council, to a Committee or Sub-Committee of the Council or to any Joint Committee on which the Council is represented and/or speak on behalf of the Council on a regular basis to journalists or broadcasters. This is unlikely to be posts below Band 4.</li> </ul>

### 1.3. IS THERE A LIST OF AFFECTED POSTS IN THE COUNCIL

- (1) All posts designated as politically restricted will be flagged as politically restricted on IBC, and a list of such posts can be requested People Services.
- (2) The decision as to whether a post is to be designated as politically restricted on the grounds that it is a “Politically Sensitive Post” (as defined above) will be taken by the appropriate ELT Member or their nominated officer; e.g. manager for the service/ team. This will be determined when the post is created or when there is a change in role and responsibilities and confirmed as per the establishment management and recruitment processes. (The relevant forms under these processes require confirmation as to whether a post is politically restricted)
- (3) In addition ELT Members or their nominated officer will review the list of politically restricted posts quarterly to ensure it is up to date and will notify

of any changes required to the list of politically restricted posts which will be held in IBC.

#### **1.4. WHAT IS THE EFFECT OF A POST BEING DESIGNATED AS “POLITICALLY RESTRICTED”**

- (1) The following clause will be inserted into all contracts of employment for employees holding posts designated as politically restricted.
- (2) ‘This post is politically restricted and you may not therefore engage in any political activity contrary to the provisions of the Local Government and Housing Act 1989 or any Regulations made thereunder whilst employed by the City Council.’
- (3) Staff holding jobs which are politically restricted may not:
  - i. stand for election as a Member of Parliament
  - ii. stand for election as a Member of the European Parliament
  - iii. stand for election as a Councillor in any local authority (although staff may still stand for election to a Parish or Community Council)
  - iv. stand for election as a Member of the Scottish Parliament
  - v. stand for election as a Member of the Welsh Assembly
  - vi. act as an election agent or sub-agent for a candidate of any of the above
  - vii. canvass at elections on behalf of a political party or a person who is or seeks to be a candidate of any of the above
  - viii. hold office in a political party where his duties as a member require them to participate in the general management of the party or to act on behalf of the party in dealings with persons other than members of the party or members of another political party associated with the party.
  - ix. speak or write publicly on matters with the apparent intention of affecting public support for a political party (this does not apply to political assistants and is not to be construed as precluding the appointee from engaging in activities to such an extent as is necessary for the proper performance of his official duties).
- (4) The cumulative effect of these restrictions is to limit the holders of politically restricted posts to bare membership of political parties, with no active participation within the party permitted.

*(Schedule 1 of the Local Government Officer (Political Restriction) (England and Wales) Regulations 1990 provides further detail.)*

#### **1.5. ARE THERE ANY EXEMPTIONS AND WHO CAN APPLY**

- (1) An application for an exemption can be made on the basis that a post has been incorrectly included in Category 8.



- (2) Only employees (or future employees with a formal job offer from WCC) in Politically Sensitive Posts which have been designated as politically restricted under Category 8 above can apply for the exemption.
- (3) No application for exemption can be made for posts politically restricted under Categories 1 -7.
- (4) No application can be made for an exemption to carry out political activity as described above while the post remains politically restricted.

#### **1.6. WHAT ARE THE GROUNDS FOR APPLYING FOR AN EXEMPTION**

- (1) Employees may apply for an exemption from political restrictions on the basis that their post was incorrectly included on the list of Politically Sensitive Posts since it does not undertake either of the following duties:
  - i. giving advice on a regular basis to the authority itself, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented; or where the authority are operating executive arrangements, to the executive of the authority; to any committee of that executive; or to any member of that executive who is also a member of the authority;
  - ii. speaking on behalf of the authority on a regular basis to journalists or broadcasters
- (2) Where an exemption is granted, it applies to that post – it is not transferable from one authority to another, nor from one job to another.

#### **1.7. WHEN DO YOU APPLY FOR AN EXEMPTION**

- (1) Where an individual who already holds public office is subsequently appointed to, or promoted into, a politically restricted post as designated under Category 8, they must apply for an exemption against such designation before moving into the new post if they wish to continue to hold public office (see Exemption Section above).

#### **1.8. HOW DO YOU APPLY FOR AN EXEMPTION**

- (1) An employee who wishes to apply for an exemption should, in the first instance, write to the Director of People Services requesting a decision on the status of their post.
- (2) The Director of People Services will submit the application with the appellant's job description and any other relevant information to the City Council's Chief Executive for decision.
- (3) The decision of the Chief Executive is final.

#### **1.9. CONSEQUENCES OF NOT APPLYING FOR AN EXEMPTION**

- (1) If an individual is in a politically restricted post and has not obtained an exemption but still takes part in political activity, they would be in breach of

their contract of employment. They may also be liable to disciplinary action under the council's disciplinary code.

- (2) If an individual who already holds public office is subsequently appointed to, or promoted into, a politically restricted post and does not apply for exemption, they will be disqualified from remaining in public office.

## **2. OFFICER EMPLOYMENT PROCEDURE RULES**

### **2.1. RECRUITMENT AND APPOINTMENT**

#### Declarations

- (1) 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.
- (2) 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.

#### Seeking support for appointment.

- (3) 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.
- (4) No councillor will seek support for any person for any appointment with the Council.

### **2.2. RECRUITMENT OF HEAD OF PAID SERVICE AND CHIEF OFFICERS**

- (1) Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:
  - i. draw up a statement specifying:
    - the duties of the officer concerned; and
    - any qualifications or qualities to be sought in the person to be appointed;
  - ii. 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
  - iii. make arrangements for a copy of the statement mentioned in paragraph to be sent to any person on request.

### **2.3. APPOINTMENT OF HEAD OF PAID SERVICE**

- (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. That committee or sub-committee must include at least one member of the executive.

- (2) The full Council may only make or approve the appointment of the head of paid service where no well-founded objection has been made by any member of the executive.

#### **2.4. APPOINTMENT OF CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS**

- (1) A committee or sub-committee of the Council will appoint chief officers and deputy chief officers. That committee or sub-committee must include at least one member of the executive.
- (2) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the executive has been received.

#### **2.5. OTHER APPOINTMENTS**

- (1) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups and an assistant to the mayor) is the responsibility of the relevant Chief Officer, and may not be made by councillors.
- (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 provided the Council has agreed in principle to the appointment of political assistants.

#### **2.6. DISCIPLINARY ACTION**

- (1) **Suspension.** The Head of the Paid Service, monitoring officer and chief finance officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (2) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.
- (3) Councillors will not be involved in the disciplinary action against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

#### **2.7. DISMISSAL**

- (1) Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

## 2.8. APPOINTMENT OF CHIEF OFFICERS

- (1) Subject to paragraphs (2) and (6) the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Chief Executive or by an officer nominated by him.
- (2) Paragraph (1) shall not apply to the appointment or dismissal of, or disciplinary action against –
  - i. the Chief Executive
  - ii. a statutory or non statutory chief officer within the meaning of section 2 of the Local Government and Housing Act 1989 Act (“the 1989 Act”);
  - iii. a deputy chief officer within the meaning of section 2 of the 1989 Act; or
  - iv. a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- (3) The full Council must approve the appointment of the Chief Executive before an offer of appointment is made to him or, as the case may be, must approve dismissal before notice of dismissal is given to him.
- (4) Where a committee or sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (i), (ii) or (iii) of paragraph (2), at least one member of the Cabinet must be a member of that committee or sub-committee.
- (5) In this, and following, paragraphs “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council, that committee, sub-committee or officer, as the case may be.
- (6) An offer of an appointment as an officer referred to in sub-paragraph (i), (ii) or (iii) of paragraph 2 must not be made by the appointor until –
  - i. the appointor has notified the Director of Human Resources of the name of the person on whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
  - ii. the Director of Human Resources has notified every member of the Cabinet of:
    - the name of the person to whom the appointor wishes to make the offer;
    - any other particulars relevant to the appointment which the appointor has notified to the Director of People Services; and

- the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Cabinet to the Director of People Services; and either
    - the Leader has, within the period specified in the notice under sub-paragraph (ii) (c), notified the appointor that neither they nor any other member of the Cabinet has any objection to the making of the offer;
    - the Director of People Services has notified the appointor that no objection was received by them within that period from the Leader; or
    - the appointor is satisfied that any objection received from the Leader within that period is not material or is not well founded.
- (7) In this, and following, paragraphs “dismissor” means, in relation to the dismissal of an officer of the Council, the Council or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council, that committee, sub-committee or other officer, as the case may be.
- (8) Notice of the dismissal of an officer referred to in sub-paragraph (i), (ii) or (iii) of paragraph (2) must not be given by the dismissor until
- i. the dismissor has notified the Director of People Services of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal
  - ii. the Director of People Services has notified every member of the Cabinet of
    - the name of the person who the dismissor wishes to dismiss;
    - any other particulars relevant to the dismissal which the dismissor has notified to the Director of People Services  
and
    - the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the proper officer; and either
      - the Leader has, within the period specified, notified the dismissor that neither he they nor any other member of the Cabinet has any objection to the dismissal and the Director of People Services has notified the dismissor that no objection was received by them within that period from the Leader; or
      - the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- (9) Nothing in paragraph (1) shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:

- i. another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
  - ii. a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- (10) Every appointment (and dismissals) of a Chief Officer and a Deputy Chief Officer of the Council shall be made by the Appointments Sub-Committee except where the relevant Cabinet Member, indicates that they wish the Chief Executive to do so on their behalf. These arrangements shall also apply to appointments of Chief Officers and Deputy Chief Officers made as part of the Bi-borough arrangements. For such appointments to be made the Appointments Sub-Committee (or similar) of each of the participating boroughs must have agreed.
- (11) Disciplinary action shall only be considered against the Head of the Paid Service, the Chief Financial Officer or the Monitoring Officer when the provisions of the Local Authorities (Standing Order (England) (Amendment) Regulations 2015 have been adhered to.
- (12) Where it is proposed 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 the Council's existing officers, the Director of People Services shall:
  - i. draw up a statement specifying the duties of the post concerned and any qualifications or qualities to be sought in the person to be appointed;
  - ii. 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
  - iii. make arrangements for a copy of the statement referred to in paragraph (i) to be sent to any person on request.
- (13) Where a post has been advertised in accordance with paragraph (12) (ii) a shortlist of qualified applicants for the post shall be selected and such selected applicants shall be interviewed by the Appointments Sub-Committee.
- (14) Where no qualified person has applied, the Director of People Services shall make further arrangements for advertisement in accordance with paragraph (12) (ii) above.
- (15) The appointment, resignation, retirement etc, of Chief Officers shall be reported to all Members of the Council.

## **2.9. DISCIPLINARY ACTION IN RESPECT OF CHIEF OFFICERS**

- (1) Every Chief Officer shall be subject to the Code of Conduct and the disciplinary procedures prescribed in or by his contract of employment and as set out in the Council's Constitution.
- (2) No disciplinary action in respect of the Head of the Paid Service, its Monitoring Officer or its Chief Financial Officer, except action described in paragraph (3) below, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with the provisions of Standing Order 2.8 (10) above.

#### **2.10. SECURITY**

- (1) Every officer of the Council shall be required to give such security for the faithful execution of their office, and for duly accounting for all moneys which may be entrusted to them, as the Council shall from time to time determine, the Council paying the necessary premiums.



## **MEMBERS' ALLOWANCES SCHEME FROM 1 APRIL 2024 TO 31 MARCH 2025**

1. This Scheme is made under, and in accordance with, the provisions of the Local Authorities (Members' Allowances) (England) Regulations 2003.
2. The rates of allowances specified will apply until the Scheme is amended or replaced, in which event the revised rates of allowances will be paid from the date from which the amendment takes effect.
3. Subject to the relevant form being completed at the appropriate time, entitlement to allowances under the Scheme commences on the date upon which a Member is elected to the Council or is elected or appointed to an office qualifying for special responsibility. The entitlement ceases on the date upon which a Member ceases to hold a qualifying office or ceases to be a Member of the Council (the fourth day after polling day in the year of City Council elections, i.e. the Monday). An apportionment of the relevant allowances will be made in the same proportion as the number of days that the Member held Office or was a Member, bears to the number of days in the relevant year.
4. Any Member may by notice in writing to the Committee and Councillor Support Manager elect to forego for any period any part of an entitlement to an allowance under the Scheme which will take effect from the date upon which the notice is received by the Committee and Councillor Support Manager.
5. Allowances will be paid by equal monthly instalments on the 20th day of each month by BACS to the account notified by the relevant Member for these purposes to the Committee and Councillor Support Manager. Members will also be required to provide a valid National Insurance Number. A £1,250 lump sum additional Basic Allowance for Members to purchase ICT equipment will be paid to any Member elected. This allowance is also payable to any Member elected at a by-election except that this allowance will not be paid if a Member received this allowance upon having been elected at a by-election in the previous 12 months.
6. Except where so authorised by the Committee and Councillor Support Manager any claim for travel, subsistence and care allowances must be made within two months of the date of the duty to which the claim relates.

### **Basic Allowance**

7. A Basic Allowance of £10,581 pa from 1 April 2024 will be paid to every Member of the Council who formally elects to receive it.

### **Special Responsibility Allowance**

8. Payments of Special Responsibility Allowances will be made to Members of the Council who hold special offices unless they formally elect not to receive them. The General Purposes Committee will make a recommendation to Council.

## **Conferences**

9. Councillors are entitled to have their Conference fees met when approved by the appropriate Cabinet Member, Committee or the Committee and Councillor Support Manager in consultation with the relevant party Chief Whip and to receive payments at the approved rates for travel and subsistence in respect of their attendance at conferences held outside the City to discuss matters relevant to the discharge of the Council's functions.

## **Travel Expenses**

10. Members and Co-opted Members are entitled to claim payment of Travel Allowances at the rates of allowance set out in Annex B where expenditure has necessarily been incurred to enable them to attend an approved duty, defined as set out in Annex C, but only when travelling outside the Greater London area. Members of Education Admissions and Exclusions Appeal Panels are entitled to claim travel allowances for attendance at meetings relating to their membership at the rates set out in Annex B.

Members of the Council shall be entitled to a City Council all zones official parking permit for use when undertaking official council duties and otherwise used in accordance with the rules relating to their use.

## **Subsistence**

11. Subsistence may be claimed only for accommodation or meals at conferences (approved in accordance with paragraph (i) of Annex C) where such costs are not included in the conference fee, subject to the maximum allowance referred to in Annex B.

## **Dependant/Carer's Allowance**

12. Members may claim this allowance against care expenses they incur in arranging carers to look after dependants who cannot be left by themselves by reason of age or other special needs. The allowance may only be claimed in respect of approved duties defined in Annex C to this scheme (and is subject to tax and National Insurance deductions at personal rates).

The maximum rate claimable shall be set at the level of the London Living Wage rate set annually by the Living Wage Foundation.

The following criteria shall also apply:

- Payment is claimable in respect of children aged 15 or under or in respect of other dependants where there is medical or social work evidence that care is required.
- The allowance is not payable to any member of the claimant's household.

- The claim shall cover the time spent at the meeting plus up to two hours for travel to and from the meeting.
- The claim needs to be supported by a receipt which should be retained by the Member for auditing purposes for a period of six years.
- Any dispute as to entitlement and any allegation of abuse should be referred to the Council's Monitoring Officer for adjudication.

### **Sickness and Parental Leave Policy**

13. All Members shall continue to receive their Basic Allowance in full in the case of pregnancy, maternity, paternity and sickness leave.

Please see Annex D for more details on the Members Parental Leave Policy.

### **Payments whilst under Suspension**

14. Payments of allowances, basic and special responsibility, shall not be paid to a Member who is suspended or if partially suspended that element of special responsibility allowance which may be payable in respect of an office held by the Member to which the partial suspension relates.

### **Publication**

15. This scheme will be published as required by legislation. At the end of each financial year the City Council is required by legislation to publish the sums paid to councillors under the Scheme.

## ANNEX A

### MEMBERS ALLOWANCE SCHEME – SPECIAL RESPONSIBILITY ALLOWANCES WITH EFFECT FROM 1 APRIL 2024

Office Holders	Allowances (from 1.4.24)	Total Cost (full year)
<b>Leader/Deputy Leader</b>	£	£
Leader of the Council (Chair of the Cabinet)	43,266	43,266
Deputy Leader of the Council (x2)	24,394	48,788
<b>Cabinet Members</b>		
Each Cabinet Member (excluding the Leader and the Deputy Leaders) (x7)	17,668	123,676
<b>Opposition Leader/Whips</b>		
Leader of the Opposition	10,374	10,374
Chief Whip (Majority)	5,511	5,511
Chief Whip (Opposition)	5,511	5,511
Opposition Party Deputy Leader (x2)	6,433	12,866
<b>Policy and Scrutiny Committees</b>		
Each Scrutiny Committee Chair (x4)	9,042	36,168
Opposition Party Scrutiny Spokesperson	4,520	4,520
<b>Other Committee/Sub-Committee Chairmen</b>		
Audit and Performance	9,042	9,042
Standards	3,390	3,390
Planning Applications Committees (x2)	4,986	9,972
Licensing Sub-Committees (x3)	4,986	14,958
Pension Fund Committee	3,390	3,390
*Licensing Committee	9,971	9,971
+Planning and City Development Committee	9,971	9,971
<b>Vice-Chairs</b>		
*Planning	5,551	5,551
+Licensing	5,551	5,551

\* (If this Chair/Vice Chair is also appointed as a Chair of a Licensing Sub-Committee they will only receive the allowance payable to the Licensing Committee Chair/Vice Chair)

+ (If this Chair/Vice Chair is also appointed as a Chair of a Planning Applications Committee they will only receive the allowance payable to the Planning and City Development Committee Chair/Vice Chair)

**Deputy Cabinet Members**

Each Deputy Cabinet Member appointed to support a Cabinet Member (x9)	3,909	35,181
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**Other Panels**

Chair of Rating Advisory Panel	3,390	3,390
Chair of Discretionary Housing Benefits Panel	3,390	3,390

Panel Members of the Discretionary Housing and Benefits Review Panel and the Rating Panel (x6)	2,351	14,106
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Members of Pension Fund Committee except Chair (x3)	2,351	7,053
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Panel Members of the Licensing Sub-Committees and Members of the Planning Applications Committees rate of £2,883 (x21 - £60,543)

Panel Member of the Adoption and Fostering Panel	3,390	3,390
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<b>Basic Allowance (x54)</b>	<b>10,581</b>	<b>571,374</b>
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**NOTE REGARDING SPECIAL RESPONSIBILITY ALLOWANCES PAYABLE IN RESPECT OF THE INDEPENDENT PERSON APPOINTED UNDER SECTION 28 OF THE LOCALISM ACT 2011 AND CO-OPTED MEMBERS ON OTHER COMMITTEES**

Independent Persons on the Standards Committee shall be paid a Special Responsibility Allowance of £500 pa.

The Independent Person on the Audit and Performance Committee shall be paid a Special Responsibility Allowance of £2,500 pa.

The co-opted Members of the Policy and Scrutiny Committee that covers education matters shall be paid upon election and completion of the necessary acceptance of office a sum of £300 to cover their out-of-pocket expenses for the period of their office.

## ANNEX B

### TRAVEL AND SUBSISTENCE ALLOWANCES: (OUTSIDE THE GREATER LONDON AREA)

#### (A) TRAVEL

- (a) Travel by own private vehicle

<b>Motor Mileage Allowance</b>	<b>Pence Per Mile</b>
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Motorcycles:

Up to 150cc	8.5
151-500cc	12.3
Over 500cc	<u>16.5</u>

**Cars & Tri cars:**

500cc-999cc	35.8
1000-1199cc	39.9
Over 1199cc	<u>49.4</u>

- (b) **Travel by Public Transport**

The ordinary fare or any reasonably available cheap fare actually paid.

- (c) **Travel by Taxi**

Members are not permitted to claim for travel by taxi except as part of onward or return travel to or from a conference held outside the Greater London area where a claim for other travel expenses has or could be made.

The Head of Committee and Governance Services shall be authorised to reimburse claims for taxi fares, on an exceptional basis, for example on medical advice, to and from approved duties. Such authority to be obtained in advance, if possible.

- (d) **Travel by Rail and Air**

(i) The ordinary fare or any available cheap fare actually paid.

(ii) Actual expenditure incurred on:  
Reservation of seats  
Sleeping accommodation for an overnight journey  
Deposit on portorage of baggage

(iii) Travel by Air shall only be allowed when included as part of the formal approval of the attendance at a conference or overseas visit. In the case of overseas visits the cost to be met from the budget of the relevant service.

(e) **Additional Travel Expenses**

The rates specified above may be increased by not more than the amount of any expenditure incurred on tolls, ferries, parking fees or cost of overnight garaging of a motor vehicle, except that reimbursement of the Central London Congestion Charge shall not be permitted.

(f) **Subsistence**

Subsistence claims for the reasonable costs of overnight accommodation or meals not included in the Conference fee can only be claimed, up to a maximum of £180 per day, upon production of relevant receipts.

(g) **Receipts**

Claims for reimbursement of expenditure by main line rail, air or any other additional expenses, or subsistence, must be accompanied by a receipt.

**Note:** All Members shall be entitled to apply to the Head of Members' Services for the use of an all zones parking permit for their use whilst on Official Council business only such permit only to be used in accordance with the guidance notes for use issued with the permits.



## **ANNEX C**

### **LIST OF APPROVED DUTIES FOR TRAVEL, SUBSISTENCE AND CARER'S ALLOWANCE:**

The following are the categories of duties which qualify for payment of travel, subsistence and carer's allowance, where such expenditure has been incurred (although separate payments will only be reimbursed for travel and subsistence outside the Greater London area):

- (a) Meetings of the Council, the Cabinet, their Committees, Sub-Committees, Panels and meetings of the Westminster Scrutiny Commission and the Policy and Scrutiny Committees and Task Groups of which the Councillor is a member or at which a Councillor who is not a member of that body attends to address the meeting with the prior permission (where such permission is required under Standing Orders) of the Chairman.
- (b) Attendance as the Council's representative at a meeting of any joint authority or Committee of local authorities or of any Committee or Sub-Committee of the body of which the Council is a constituent member.
- (c) Attendance as the Council's representative at meetings of any association of authorities or Committee or Sub-Committee of the association of which the Councillor is a member.
- (d) Attendance at duties which qualify for attendance allowance as single member duties as specified in the Regulations, currently:
  - Meetings to determine the attendance of individual pupils at any out of borough special schools.
  - Rota and other visits to inspect establishments outside of the borough on behalf of the Cabinet Members for Children and Young People and Adults Social Care.
- (e) Attendance at any other meeting convened by the Council, the Cabinet, a Committee or Sub-Committee to discuss matters relevant to the discharge of the Council's functions and to which Members of more than one Party Group have been invited.
- (f) Attendance at any meeting, which is an induction training session, seminar, presentation, or briefing arranged by Chief Officers of the City Council for all Members of a Committee, Sub-Committee or Panel to discuss matters relevant to the discharge of the Council's functions and to which Members of more than one Party Group have been invited.
- (g) Attendance as the Council's representative in connection with the discharge of the Council's functions at meetings of outside bodies (excluding local authority maintained schools), their Committees and Sub-Committees. The Head of

Governance and Councillor Liaison maintains a list of such representatives and has delegated powers to add and remove bodies to this category to reflect formal appointments made by the City Council.

- (h) Attendance at visits and inspection of sites and premises arranged by officers or approved by Cabinet/Committee (eg opening of new facilities).
- (i) Attendance approved by the appropriate Committee or by the Head of Governance and Councillor Liaison, in accordance with their delegation at conferences convened by other authorities and organisations to discuss matters relevant to the discharge of the Council's functions.
- (j) Attendance by the Leader of the Council, Cabinet Members, Deputy Cabinet Members, Leader of the Opposition, and Chief Whips on matters concerning the discharge of the Council's functions.
- (k) Attendance by Cabinet Members, Chairs and Vice-Chairs of Committees and Sub-Committees concerning the discharge of functions relevant to the work of their portfolio or their Committees or Sub-Committees, including Chair's Call-over meetings and site visits.
- (l) Attendance before Parliamentary Committees, official bodies and inquiries to give evidence or make representations on the council's behalf.
- (m) Attendance as the Council's appointee or nominee at any meeting. (This excludes party group meetings but includes single member duties where one member has been appointed, appearing as a Council witness at a Planning Inquiry or court proceedings or member-level working groups appointed by a Committee and representation on any outside body which is not eligible for attendance allowance.

## **ANNEX D**

### **Maternity, Paternity, Shared Parental and Adoption Leave Policy for Councillors**

#### **1. Introduction**

This Policy sets out Members' entitlement to maternity, paternity and adoption leave and relevant allowances.

The objective of the policy is to ensure that Members are able to take appropriate leave at the time of birth or adoption of a child.

There is at present no legal right to parental leave of any kind for people in elected public office.

Note that the provisions for leave that is possible for these (and other) purposes differ from the duration that Special Responsibility Allowances (SRA) are payable.

Legal advice has been taken on these policies, and they conform with current requirements including the requirement for members to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period.

#### **2. Leave Periods**

##### **2.1 Maternity**

- Members giving birth are entitled to up to 12 months maternity leave from the due date.
- Where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 12-month period.
- In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52-week entitlement.
- The Member must notify the Head of Governance and Councillor Liaison of their intention to take maternity leave in writing no later than 28 days before the date they wish the period of maternity leave to start and:
  - i. Confirm the expected date of childbirth
  - ii. Provide a copy of the MATB1 (available from a doctor or midwife)
  - iii. Confirm the dates which the Member will be absent.

##### **2.2 Paternity**

- A Member is entitled to take up to two weeks paternity leave if they are either: the biological father of the child; the spouse, civil partner or partner of the Mother/Single Adopter; or are the Other Adopter of the child.

- The Member may take one week or two consecutive weeks of paternity leave, but not single days or less than a week's duration. Paternity leave must be taken within two months of the birth or adoption.
- The Member must notify the Head of Governance and Councillor Liaison of their intention to take paternity leave in writing no later than 28 days before the date they wish the period of maternity leave to start and:
  - i. Confirm the expected date of childbirth
  - ii. Provide a copy of the MATB1 (available from a doctor or midwife)
  - iii. Confirm the dates which the Member will be absent.

### **2.3 Adoption**

- A Member who adopts a child through an approved adoption agency shall be entitled to take up to 26 weeks statutory adoption leave (SAL) and a further 26 weeks of additional adoption leave (AAL).
- The Member must notify the Head of Governance and Councillor Liaison of their intention to take adoption leave in writing no later than 28 days before the date they wish the period of adoption leave to start and:
  - i. Confirm they are the Main Adopter and the date the child is expected to be placed for adoption (UK Adoption) or the date on which the date on which the child is expected to enter Great Britain (Overseas Adoption);
  - ii. Provide a copy of the matching certificate/official notification;
  - iii. Confirm the dates which the Member will be absent.

### **2.4 Shared Parental Leave**

- A Member is entitled to Shared Parental Leave if they have (or share with the other parent) the main responsibility for the care of the child and are either the Mother, Father, Main Adopter or Other Adopter of the child, or the spouse, civil partner or partner of the Mother/Main Adopter.
- A Member may share up to 50 weeks leave if the Mother/Main Adopter curtails their maternity/adoption leave before using their full entitlement of 52 weeks. The number of weeks available as Shared Parental Leave will be reduced by the number of weeks maternity or adoption leave that has already been taken by the Mother or Main Adopter.
- There is a requirement for the mother to take the first two weeks after childbirth as maternity leave.
- Shared Parental Leave can be taken as one continuous block or in multiples of complete weeks, but must end no later than one year after the birth/placement of the child.
- The Member must notify the Head of Governance and Councillor Liaison of their intention to take shared parental leave in writing no later than 28 days before the date they wish the period of shared parental leave to start and:
  - i. Confirm their entitlement to shared parental leave and the expected (or actual) date of birth/placement

- ii. Confirm the start and end dates of the Mother/Main Adopter's maternity/adoption leave, the amount of shared parental leave available and how much each parent intends to take
  - iii. Provide a copy of the MATB1 or matching certificate/official notification
  - iv. Confirm the dates which the Member will be absent.
- A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.

**2.5** Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period. Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return. Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

### **3. Pay and Allowances**

#### **3.1 Basic Allowance**

All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity, shared parental or adoption leave.

#### **3.2 Special Responsibility Allowances**

- Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full for the first 6 months in the case of maternity or adoption leave followed by 6 months at half allowance.
- The payment of Special Responsibility Allowances, during a period of maternity, shared parental or adoption leave shall continue for a period of up to twelve months (constituting 6 months full SRA followed by 6 months half SRA).
- Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.
- Where a replacement is appointed to cover the period of absence, that person shall receive an SRA on a pro rata basis for the period of the temporary appointment. In such circumstances, this parental leave policy

takes precedence and adjusts the total number of SRAs being paid at any one time as set out in the main section of the allowances scheme.

### **3.3 Shared Parental Pay**

Shared parental pay consists of: 6 months at full SRA (including statutory maternity/paternity/adoption pay) and 6 months at half SRA (including statutory maternity/paternity/adoption pay).

Under this policy, a mother or adopter can decide to share his/her parental leave and pay allowance with their partner by choosing to return to work early and convert any unused allowance into shared parental leave/pay during the first year of birth or adoption of their child. To do this, they must "curtail" (end early) their allowance, so that it becomes available for their partner.

There are 52 weeks of leave/pay available to be shared under this policy, though there is a requirement for the mother to take the first 2 weeks after childbirth as maternity leave.

### **4. Requests for extended leave**

While this policy allows Members to take up to 12 months leave, as stated above, under the Local Government Act 1972 any member of the council is required to attend a meeting of the Council within a six-month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six-month period.

In case where a member wishes to request extended absence, they should write to the Head of Governance and Councillor Liaison who will prepare a report for the consideration of the Full Council.

### **5. Resigning from Office and Elections**

- If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.
- If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office
- If an election is held during the Member's maternity, paternity, shared parental or adoption leave and they are elected, their basic allowance and SRA commences from the date that child is born.

### **6. Arrangements for Councillors taking leave.**

All Councillors taking parental leave should place an out of office message on their emails to advise residents of alternative sources of advice.

Individual considerations will apply in all different circumstances based on the roles held by different Members but the main considerations which will be reviewed with the Member in advance of taking parental leave are as follows:

- Handling ward work, including decisions on ward budgets – this can be handled informally within the ward with the agreement of other ward members;
- Seat on committees – this will generally require cover arrangements to be made by the Group whip and consideration may be given as to whether to make such changes on a temporary or permanent basis;
- Executive decision-making authority and portfolio management – when a Cabinet Member is unavailable to exercise their delegated authority or manage their portfolio due to leave, arrangements will be made at the Leader's discretion having had regard to appropriate advice.

The group leader, group whip or councillor concerned should notify the Chief Executive of cover arrangements agreed.

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