

## **Report of the Governance Review Delivery Group Council 21 May 2012**

**Chair: Councillor Claire Kober**

### **1. Introduction**

- 1.1 This report outlines the proposed detailed text changes to the Council's Constitution, for implementing the recommendations of the Governance Review Delivery Group as part of their evaluation of the arrangements that came into effect in May 2011.

### **2. Background**

- 2.1 At the Council meeting in January 2011 in regard to the Governance Review carried out by Shared Intelligence, the Council resolved to establish an informal Delivery Group of members with a view to making recommendations for adoption by full Council and implementation as from Annual Council in May 2011.
- 2.1 At the Council meeting in May 2011 the recommendations of the Delivery Group were approved, and it was resolved that the Delivery Group would monitor the implementation of the Governance Review throughout 2011/12.
- 2.2 Since May 2011, the informal Delivery Group has been convened on three occasions. It has met on 24 January 2012, 3 April 2012 and 2 May 2012.
- 2.3 As part of their evaluation of the new arrangements over 2011/12, the Delivery Group carried out a consultation to receive the feedback from residents, members, stakeholders and officers.
- 2.4 The Delivery Group has considered how the arrangements for 2011/12 have been implemented, and made recommendations for a number of changes. The Group has recommended text amendments to the Council's Constitution, as well as to the set of protocols which were developed to implement the changes in May 2011.
- 2.5 This report outlines the Delivery Group's proposals for amending the Council's Constitution, which are provided in full in Appendix 1 of this report, for implementation as from May 2012.

### **3. Constitutional Amendments**

The following amendments to the Council Constitution are proposed.

## Part 1 – Summary and Explanation

- 3.1 The revised Part 1 removes a reference to the Area Assemblies, and the Haringey Strategic Partnership which no longer exists. Reference to the Standards Board for England is also removed, as this has been abolished by legislation.

## Part 2 – Articles of the Constitution

- 3.2 Article 3 is amended at 3.01 to remove reference to the Standards Board for England which has been abolished.
- 3.3 Article 4 is amended at 4.01 to reflect the updated policy and strategy framework of the Council, and at 4.03 to include the budget-setting full Council meeting.
- 3.4 Article 6 is updated at 6.01 to reflect an update to the Local Government Act 2000, and at 6.03 to take into account the establishment of Scrutiny Review Panels in place of the current Task and Finish Scrutiny Reviews.
- 3.5 Article 7 is updated to remove the provisions during the 2010 Council election year.
- 3.6 Article 10 is updated to reflect that there is no longer a requirement for Area Committee Chairs to sit on the Overview and Scrutiny Committee.
- 3.7 Article 12 is amended at 12.01 to reflect restructures to the Council's Directorates, and at 12.03 to remove reference to the Standards Board for England which has been abolished.

## Part 3 Section A – Local Choice Functions

- 3.8 This section is revised to remove reference to the General Purposes Committee, and to reflect restructures to the Council's Directorates.

## Part 3 Section B – Budget and Policy Framework Schedule

- 3.9 This section is amended to reflect the updated policy and strategy framework of the Council.

## Part 3 Section C – Terms of Reference Full Council and Non-Executive Bodies

- 3.10 The Terms of Reference are amended at Section 2 and Section 3 under the OSC, to reflect the establishment of Scrutiny Review Panels, and that Area Committee Chairs are no longer required to sit on Overview and Scrutiny Committee.

## Part 3 Section D – Terms of Reference The Cabinet and Cabinet Bodies

- 3.11 The Terms of Reference are amended to remove reference to the Cabinet Procurement Committee and the Cabinet Voluntary Sector Committee, following agreement that they should be

decommissioned.

#### Part 4 Section E – Budget & Policy Framework Procedure Rules

3.12 This section is amended to reflect the establishment of Scrutiny Review Panels.

#### Part 4 Section G – OSC Procedure Rules

3.13 The OSC Procedure Rules are amended to reflect the establishment of Scrutiny Review Panels, in terms of their responsibilities and how their recommendations shall be reported to Cabinet. The Rules are also amended to reflect that there is no longer a requirement for Chairs of Area Committees to sit on OSC.

3.14 The responsibilities of the Overview and Scrutiny Committee are updated under paragraph 17 to ensure the link between Area Committees and the scrutiny function is maintained.

#### Part 4 Section J – Contract Procedure Rules

3.15 The Contract Procedure Rules are updated to reflect the decommissioning of the Cabinet Procurement Committee, and to remove reference to a Constitution Review Working Group reviewing CSOs.

#### Appendix E Section 8

3.16 The Appendix is revised to increase the threshold of delegated authority for restructures from 20 to 50 posts. This amendment is intended to improve the management of agendas for Corporate Committee.

### **4. Recommendations**

4.1 It is recommended that members resolve:

- I. To approve the detailed text changes to the Constitution, for implementation from May 2012.

### **5. Appendices**

#### Appendix 1 – Text amendments to the Constitution

- Part 1 Summary and Explanation
- Part 2 Articles of the Constitution
- Part 3 Section A Local Choice Functions
- Part 3 Section B Budget and Policy Framework Schedule
- Part 3 Section C Terms of Reference: Full Council and Non-Executive Bodies
- Part 3 Section D Terms of Reference The Cabinet and Cabinet Bodies
- Part 4 Section E Budget & Policy Framework Procedure Rules

- Part 4 Section G Overview and Scrutiny Procedure Rules
- Part 4 Section J Contract Procedure Rules
- Appendix E Section 8

# Part One

## Summary and Explanation

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### The Council's Constitution

The London Borough of Haringey has agreed a new 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. The law requires some of these processes, while others are a matter for the Council to choose.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### What's in the Constitution?

Article 1 of the Constitution commits the Council to clear and transparent decision-making, which is inclusive and provides a focus for community leadership whilst also ensuring effective and efficient use of resources. Article 2 explains the role of members and Article 3 explains the rights of citizens in relation to the Constitution. Articles 4-16 explain how the key parts of the Council operate.

### How the Council operates

The Council is composed of 57 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 a code of conduct to ensure high standards in the way they undertake their duties. The Council's Standards Committee advises them on the code of conduct, arranges training and may hold hearings into alleged misconduct. ~~, if requested to do so by the Standards Board for England.~~

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader and the Leader appoints members of the Executive (known in Haringey as the Cabinet). The Council also appoints the various non-executive committees of

## PART ONE - SUMMARY AND EXPLANATION

the Council which cover regulatory matters outside the remit of the Cabinet. At Council meetings, members of the Council may:-

- Put forward motions for debate on issues of concern;
- Question the members of the Cabinet on their functions and the Council's services;
- Ask questions of the chairs of other Council committees and Council representatives on joint authorities
- Present petitions to the Council on behalf of local people;
- Debate and decide the budget and major Council policies.

Members of the public are also entitled to ask questions at Council meetings; and to attend and speak as a deputation. They may also take part in debates which are specifically identified for that purpose.

At the Annual Meeting of the Council, the Council shall elect the Mayor and the Mayor appoints the Deputy Mayor.

### **How decisions are made**

Some Council functions, such as decisions on planning applications or licensing matters, are regulatory matters under the overall responsibility of the Council itself. The Council has set up committees to deal with most of these. However, the Cabinet, is the part of the Council which is responsible for most day to day decisions. It is made up of the Leader and between 2 and 9 other Council members appointed by the Leader. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan insofar as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend, except where personal or confidential matters are being discussed. In practice all decision-making by the Cabinet is similarly open to the public. The Cabinet has to make decisions which are in line with the Council's overall policies and budget which have to be decided by the Council as a whole. If the Cabinet 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.

The Cabinet is allowed to delegate decision-making to Cabinet committees, to individual Cabinet members or to officers. The Council or its committees can also delegate decision-making to sub-committees or to officers.

Whenever there is a reference in this Constitution to a decision that may be taken by the Cabinet meeting, a Cabinet Committee or by an individual Cabinet Member, that decision may also be taken by the Leader personally. This also applies to Cabinet or executive functions delegated to officers except in the few instances, for example decisions requiring specific professional expertise, where legally a decision of that kind may only be taken by an officer. These powers of the Leader do not extend to non-executive committees or non-executive functions delegated to officers.

## Overview and Scrutiny

The Council appoints the Overview and Scrutiny Committee from among the non-executive (non-Cabinet) councillors to support the work of the Cabinet and the Council as a whole. The Overview and Scrutiny Committee co-ordinates and manages the work of any scrutiny panels which may be set up. They look into matters of concern and make reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. They also monitor the decisions of the Cabinet and can call in a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet re-consider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## ~~Area Assemblies~~ Committees

In order to give local people a greater say in Council affairs, the Council has created a structure of area committees. ~~assemblies~~. They involve councillors for each particular area and may have local people co-opted onto them. The role of area committees ~~assemblies~~ is to consult local people and consider issues of local concern or significance and to advise the Cabinet and the Council on them. They also have the role of drawing up a local community action plan designed to address the particular needs of the area. The Council or the Cabinet may give any area committee specific delegated powers to make decisions on some matters relating specifically to that area. Area committees each cover groups of wards of the Council.

## ~~Haringey Strategic Partnership~~

~~The Haringey Strategic Partnership (HSP) is the forum in which all public, private and voluntary sector organisations in the borough come together. Through the Haringey Strategic Partnership the Council works with its Partners to achieve the outcomes set out in the Local Area Agreement, to co-ordinate the best use of resources and tackle the difficult issues facing the communities of Haringey.~~

~~The HSP priorities are set out in the Haringey Community Strategy. This strategy is the overarching plan to improve the borough.~~

## 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 member/officer protocol governs the relationships between officers and Members of the Council.

## Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local citizens' advice bureau can advise on individuals' legal rights.

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

Citizens have the right to:-

- Vote at local elections if they are registered;
- Contact their local councillor about any relevant matters of concern to them;
- Be treated equally and have equal opportunity with other citizens;
- Obtain a copy of the Constitution;
- Attend meetings of the Council and its committees, except where, for example, personal or confidential matters are being discussed;
- Petition to request a referendum on a mayoral form of Cabinet;
- Participate in Council meetings as indicated above;
- Contribute to investigations by the Overview and Scrutiny Committee and scrutiny panels;
- Find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers, and when;
- Attend meetings of the Cabinet, particularly where key decisions are being discussed or decided, except where, for example, personal or confidential matters are being discussed;
- See reports and background papers and any record of decisions made by the Council and the Cabinet;
- Complain to the Council about a problem with a Council service - a leaflet and form are available which explain how this can be done;
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should do this only after using the Council's own complaints procedure.
- Complain in writing to the Council's Standards Committee ~~or the Standards Board for England~~ if they have evidence which they think shows that a councillor has not followed the Council's code of conduct;
- At the time of the external audit of the Council's accounts, inspect those accounts and make their views known to the external auditor.

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The Council's procedures also allow members of the public to present deputations or ask questions at Council or Cabinet meetings.

The Council welcomes participation by its citizens in its work. A statement of the rights of citizens to inspect agendas and reports and attend the meetings (the Access to Information Procedure Rules) is set out in Part 4 of the Constitution and is available on request from the Head of Local Democracy & Member Services.

# Part Two

## Articles

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### Article 1 - The Constitution

#### 1.01 Powers of the Council

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

#### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the London Borough of Haringey.

#### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. Support the active involvement of citizens in the process of local authority decision-making;
3. Help councillors represent their constituents more effectively;
4. Enable decisions to be taken efficiently and effectively;
5. Create a powerful and effective means of holding decision-makers to public account;
6. Ensure that no-one will review or scrutinise a decision in which they were directly involved;
7. Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. Provide a means of improving the delivery of services to the community.

#### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

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### Article 2 - Members of the Council

#### 2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 57 Members, otherwise called Councillors. Three Members will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State or by the Electoral Commission.
- (b) **Eligibility.** People can hold office as Councillors if they are on the electoral register or if they have lived, worked or occupied property in the Borough for 12 months.

#### 2.02 Election and terms of councillors

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

#### 2.03 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 of the Council;
  - (vi) Maintain the highest standards of conduct and ethics; and
  - (vii) Be available to represent the Council on other bodies.

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### (b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) 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. However, a Committee may disclose information previously treated as "exempt" where such information is within the Committee's terms of reference and such disclosure is reasonable, in the public interest, in good faith and does not breach any other reasonable requirements of the Council. The advice of the Monitoring Officer should be sought prior to any disclosure of such information.
- (iii) For these purposes "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution which define Councillors rights to information in more detail.

### 2.04 Conduct

Councillors will at all times observe the Member's Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

### 2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 - Citizens of The Council

### 3.01 Citizens rights

This Article explains the rights of citizens in Haringey. The rights of citizens to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 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 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 Cabinet when key decisions are being made except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iii) Find out from the forward plan what key decisions will be taken by the Cabinet and when and what key decisions will be taken by officers;
  - (iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet; and
  - (v) Inspect the Council's accounts and make their views known to the external auditor.
  - (vi) Be informed in writing whether the Council holds any information as requested under the Freedom of Information Act 2000. If the information is held by the Council, citizens have the right to have that information communicated to them except where such information is the subject of an exemption under the Freedom of Information Act 2000.
- (c) **Participation.**

The Council is committed to helping people contribute to how decisions are made about local services, and will therefore support a wide range of consultations to hear residents' views. The Council also wants to develop more ways of working with local people and communities, particularly hard to reach

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groups such as young people and minority ethnic communities. In addition, individual citizens of Haringey have the following rights under this Constitution:

- (i) The right to participate in any public sessions arranged for members of the Cabinet to answer questions from Haringey residents.
  - (ii) The right to be asked to contribute to the work of the Overview and Scrutiny Committee and its scrutiny panels and reviews.
  - (iii) The right to attend as part of a deputation to the Cabinet and to Council in accordance with the relevant rules.
- (d) **Representations and Complaints.** Citizens wishing to complain may:
- (i) Make representations to their ward Councillors or to members of the Cabinet;
  - (ii) Make a formal complaint about any Council service to the Council itself under its complaints scheme;
  - (iii) Complain to the Ombudsman after using the Council's own complaints scheme;
  - (iv) ~~Complain to the Standards Board for England~~ *Make a formal complaint* about a breach of the Councillor's Code of Conduct.
- (e) **Petitions**

People on the electoral roll for the Council's area may sign a petition to request a referendum for an elected Mayor form of Constitution. Citizens may also present petitions on other matters to the Cabinet, to Council or their ward member.

### 3.02 Citizens responsibilities

There are a number of ways that Haringey citizens can contribute to a flourishing democratic local authority and civic culture, which this Constitution is intended to support:

- (i) Assisting the Council with the compilation of the electoral register (including meeting their obligations to provide information about themselves and members of their household) and respecting any requirements for proper use of this information;

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- (ii) Exercising their right to vote in local, regional, national and European elections;
- (iii) Respecting and valuing the diversity of communities and their views within a densely populated urban area such as Haringey;
- (iv) Behaving in socially and morally responsible ways, towards those in authority and towards each other;
- (v) Meeting their obligations in relation to the Council, such as paying their Council Tax, ensuring their child attends school, etc.
- (vi) 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.

## Article 4 - The Full Council

### 4.01 Meanings

- (a) **Policy Framework.** These are the plans and strategies that Haringey Council has decided should be reserved to the full Council for approval:

Overarching strategies:

- (i) Sustainable Community Strategy; and
- (ii) Core Strategy, Local Development Framework
- (iii) Such other strategies that the full Council is required to adopt as a matter of law.

~~Major service plans~~ Key Documents:

- (i) Housing Strategy;
- (ii) ~~Unitary Development Plan~~;
- (iii) ~~Single Education Plan~~;
- (iv) Strategy for Children and Young People;
- (v) ~~(ii) Local Transport Plan~~; Local Implementation Plan
- (vi) Statement of Licensing Policy
- ~~(vii) (iii) Statement of Gambling Policy~~
- ~~(viii) (iv) Youth Justice Plan~~
- (ix) ~~(v)~~ Such other service plans that the full Council is required to adopt as a matter of law.

Plans required from partnerships of which the authority is a member:

- (i) ~~Crime and Disorder Reduction Partnership/Drug Action Team Strategy~~ Community Safety Strategy; and
- (ii) ~~Connexions Business Plan~~

Such other plans and strategies that Haringey Council decides should be reserved for the full Council for approval and adopted by it.

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits. The determination of the Council Tax Base is delegated to the Chief Finance Officer in consultation with the Cabinet Member for Finance and the Cabinet Advisory Board.

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- (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.

### 4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework as set out in the appropriate schedule above;
- (c) Approving the budget and levying Council Tax;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in Article 4.01 (c) above;
- (f) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Cabinet 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;
- (g) Appointing the Leader;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;
- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions;
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by the Cabinet and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers with respect to non-executive functions;
- (l) Appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (m) Adopting and amending the Members' Allowances Scheme;
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;

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- (o) Confirming the appointment or dismissal of the Head of Paid Service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities unless this only concerns "executive" functions when the decision is for the Cabinet;
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Resolving not to issue any casino premises licences in the next three years;
- (v) Adopting Standing Orders for the Council and Standing Orders as to Contracts;
- (w) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;
- (x) All matters that must be reserved to Council under the Financial Regulations including the adoption and amendment of the Treasury Management Strategy Statement and the consideration of annual, mid-year monitoring reports and an out-turn report after the close of the year on treasury management policies and practices; and
- (y) All other matters that, by law, must be reserved to Council.

### 4.03 Council meetings

There are ~~three~~ four types of Council meetings:

- (a) The Annual meeting;
- (b) The Budget Setting meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

They will be conducted in accordance with the Standing Orders (Council Procedure Rules) in Part 4 of this Constitution. Council meetings will be chaired by the Mayor if he/she is present. If the Mayor is not present, Council will select another Councillor to take the Chair. The Deputy Mayor does not automatically chair the meeting in the Mayor's absence. The Council may select the Deputy Mayor if it so wishes.

### 4.04 Responsibility for functions

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The Council will maintain the information in Part 3 of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Cabinet.

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### Article 5 - Chairing the Council

#### 5.01 Role and function of the Mayor

The Mayor will have the following roles and functions:

1. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not members of the Cabinet or hold committee chairs are able to hold the Cabinet and committee chairs to account;
4. To promote public involvement in the Council's activities;
5. To be the conscience of the Council; and
6. To attend such civic and ceremonial functions as the Council and he/she determines appropriate.

#### 5.02 First Citizen.

The Mayor shall take precedence i.e. shall be the first citizen of the London Borough of Haringey.

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### Article 6 - Overview and Scrutiny

#### 6.01 Terms of reference

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by ~~section 21~~ section 9F of the Local Government Act 2000, the Health & Social Care Act 2001 and the NHS Reform & Health Professionals Act 2002.

#### 6.02. General role

Within its terms of reference, the Overview and Scrutiny Committee may:

- (a) Exercise an overview of the forward plan;
- (b) Review or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet's or Council's functions;
- (c) Make reports and recommendations to the full Council, the Cabinet or relevant non-Executive Committee in connection with the discharge of any functions;
- (d) Make reports or recommendations on matters affecting the area or its inhabitants;
- (e) Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet;
- (f) Receive the reports and recommendations of its commissioned Scrutiny Review Panels; and
- (g) In accordance with statutory regulations to review and scrutinise matters relating to the health service within the Authority's area and to make reports and recommendations thereon to local NHS bodies.

#### 6.03 Specific functions

##### (a) Scrutiny Review Panels.

The Overview and Scrutiny Committee shall appoint ~~task oriented, time limited~~ Scrutiny Review Panels in order to discharge the Overview and Scrutiny role for designated public services and will co-ordinate their respective roles.

##### (b) Policy development and review.

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish may:

- (i) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;

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- (ii) Conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) Question members of the Cabinet and chief officers about their views on issues and proposals affecting the area; and
- (v) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **(c) Scrutiny.**

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish may:

- (i) Review and scrutinise the decisions made by and performance of the Cabinet and council officers both in relation to individual decisions and over time;
- (ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) Question members of the Cabinet 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;
- (iv) Make recommendations to the Cabinet or relevant non-executive Committee arising from the outcome of the scrutiny process;
- (v) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
- (vi) Question and gather evidence from any person (with their consent).

### **(d) Finance**

Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.

### **(e) Annual report.**

Overview and Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

#### **6.04 Proceedings of Overview and Scrutiny Committee**

The Overview and Scrutiny Committee and any Scrutiny Review Panels it may establish will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

#### **6.05 Votes of No Confidence**

The Chair of the Overview and Scrutiny Committee or the Chair of a Scrutiny Review Panel shall cease to hold that office as a Scrutiny member if a vote of no confidence, of which notice appears on the agenda, is carried at the meeting of the relevant body. The responsibilities of that member shall be carried out by the relevant Vice-Chair until such time as a subsequent meeting of that body has been notified of the appointment of a replacement or the reappointment of the member concerned. In the event of all members of the Overview and Scrutiny Committee having been removed from office in this way at any time, Scrutiny functions shall in the interim be carried out by Full Council.

## PART TWO - ARTICLES OF THE CONSTITUTION

### Article 7 - The Leader and the Cabinet

#### 7.01 The Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader may exercise any "executive" functions of the local authority even if delegated elsewhere in this Constitution except those functions which by law must be discharged by an officer. Unless the context indicates otherwise, where there is a reference in this Constitution to a decision which may be taken by the Cabinet meeting, by a Cabinet Committee or subordinate body or by an individual Cabinet Member, that decision may be taken by the Leader personally.

#### 7.02 The Leader will hold office until:

- (a) He/she resigns from the office; or
- (b) He/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) He/she is no longer a councillor; or
- (d) He/she is removed from office by resolution of the Council under Article 7.06; or
- (e) The Annual Meeting following the Council Elections after his/her election as Leader.

#### ~~Council Election Year Provisions in 2010~~

~~In 2010 the provisions below will apply in place of (e) above in the period between Election day and the Annual Meeting or the first election of a Leader if that occurs after the Annual Meeting:~~

- 
- ~~(i) If the Leader in office immediately before the Council Elections is re-elected as a councillor within the political group having an overall majority of councillors after the Elections, then the Leader shall continue in office until the election of a Leader by the Council and may exercise any "executive" functions under this Constitution, if necessary. The Leader may appoint an Interim Deputy Leader with power to exercise "executive" functions if the Leader is unable to act. The Leader shall not appoint other Cabinet Members.~~
  - ~~(ii) If the Leader in office immediately before the Council Elections ceases to be a councillor or ceases to be within the political group having an overall majority of councillors after the Elections, then the Leader shall not continue in office and delegated power is granted to the Chief Executive to exercise all "executive" functions of the Council in consultation with the representative of the largest political group of councillors~~

## PART TWO - ARTICLES OF THE CONSTITUTION

~~(or groups in the event of a parity of councillors) but only in cases of genuine urgency,~~

- ~~(iii) Decisions made under these Council Election Year Provisions must be reported to the first meeting of the appropriate body after the Annual Meeting which is likely to be the first meeting of the newly constituted Cabinet of the Council.~~
- ~~(iv) For the avoidance of doubt, the scheme of delegation to officers with respect to both "executive" and "non-executive" functions will remain in force.~~

### 7.03 The Cabinet

The Cabinet will carry out all of the local authority's "executive" functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally.

### 7.04 Form and Composition

The Cabinet will consist of the Cabinet Leader together with between 2 and 9 other councillors ("Cabinet Members") appointed to the Cabinet by the Leader.

### 7.05 Other Cabinet Members

- (i) The Leader will determine the number of Cabinet Members to be appointed which will be between 2 and 9 (in addition to the Leader).
- (ii) Each Cabinet Member will be appointed by the Leader to cover one of the specific portfolio responsibilities (other than those reserved to the Leader) determined by the Leader. The Leader or a Cabinet Member must hold the specific statutory portfolio responsibility for Children's Services and a separate portfolio responsibility for Adult Services.
- (iii) One Cabinet Member will be appointed as Deputy Leader with power to exercise the Leader's functions in the event that the Leader is unable to act or the office is vacant.
- (iv) Individual Cabinet Members may exercise powers delegated by The Leader within their specific portfolio responsibilities as set out in Part 3.
- (v) Cabinet Members shall hold office until one of the events (a) to (d) below: ~~but in 2010 the Cabinet Members in office immediately before the Elections shall cease to hold office~~

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~~after the Council Elections whether or not they are re-elected as councillors:~~

- (a) They resign from office; or
- (b) They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) They are no longer councillors; or
- (d) They are removed from office, either individually or collectively, by the Leader; or
- (e) The Annual Meeting following the Council Elections after their appointment.

### 7.06 Votes of No Confidence

The Leader shall cease to hold office if a vote of no confidence, of which notice appears on the agenda, is carried at a meeting of the full council by a majority of the members of the whole council then present. The responsibilities of the Leader shall then be carried out by the Deputy Leader until such time as the election of a replacement Leader, or the re-election of the previous Leader, by full Council. The election of the new Leader may take place at the meeting when the vote of no confidence was carried or at a subsequent meeting.

### 7.07 Default Provisions

- (i) In the event that Leader is unable to act or the office of Leader is vacant and, at the same time, the Deputy Leader is unable to act or the office of Deputy Leader is vacant, then the other Cabinet Members shall act collectively in place of the Leader until such time as a new Leader is elected by the full Council.
- (ii) In the event that no Cabinet Members remain in office or able to act then all functions of the Leader and Cabinet Members shall be exercised by the Chief Executive acting so far as is practicable in consultation with the Mayor, or Deputy Mayor if the Mayor is unable to act, until such time as a new Leader is elected by the full Council.

### 7.08 Proceedings of the Cabinet

Proceedings of the Cabinet and decisions by individual Cabinet Members shall take place in accordance with the Cabinet Procedure Rules set out in Part 4.

### 7.09 Responsibility for Functions

The Leader will maintain a list in this Constitution or the appendices to it setting out which individual Cabinet Members, Committees of the Cabinet or officers are responsible for the exercise of particular Cabinet functions.

## Article 8 - Non-Executive Committees

- 8.01 A number of functions such as planning control, licensing, health and safety regulation, electoral matters, local act powers, employee terms and conditions and pensions matters are not Executive functions for which the Cabinet is responsible. These matters are excluded from the Executive functions by law, regulations or the provisions of this Constitution.
- 8.02 The Council shall appoint a Committee to be called the Regulatory Committee to be responsible for planning control and licensing matters and a Committee to be called the Corporate Committee to be responsible for other non-executive functions as specified under legislation that are not reserved to full Council or delegated to any other Committee, Sub-Committee, Panel or other body described in Part 3 of this Constitution or an appendix to it. The Council's functions as statutory trustee of the Alexandra Palace and Park charitable trust are discharged by the Alexandra Palace and Park Board.
- 8.03 The Council's non-executive functions are currently set out in Statutory Instruments 2000 No. 2853, and 2001 No. 2212 and subsequent amending Regulations.
- 8.04 The Committees described above will be established at the Annual Meeting of the Council.
- 8.05 The Committees described above will establish appropriate sub-committees, whose terms of reference are set out in Part 3 of this Constitution or an appendix to it.
- 8.06 Proceedings of the Committees and their sub committees shall take place in accordance with the Council Committee Procedure Rules in Part 4 of this Constitution.

## Article 9 - The Standards Committee

### 9.01 Standards Committee

The Council meeting will establish a Standards Committee.

### 9.02 Composition

The Standards Committee will be composed of Councillors who may not include the Leader or Mayor or more than one Cabinet Member and the independent members none of whom are Councillors or officers of the Council or any other body having a Standards Committee. At least one quarter of the membership of the Committee must be independent members.

- (a) **Membership.** The Standards Committee is composed of Councillors and independent members
- (b) **Independent members.** Independent members will be entitled to vote at meetings;
- (c) **Chairing the Committee.**
  - (i) The Committee selects its own Chair from among the Independent Members.
  - (ii) The Chair of the Standards Committee will have a casting vote in the event of a vote being tied.
- (d) **Quorum.** The quorum is three including a Chair from among the independent members and at least one Councillor.

### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and representatives of religious organisations and parent governor representatives;
- (b) Assisting the Leader, Councillors, co-opted members and representatives of religious organisations and parent governor representatives to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct and the ethical framework;
- (f) Granting dispensations to the Elected Mayor, Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;

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- (g) Advising the Council on codes and protocols forming the Council's ethical framework and its governance arrangements, monitoring the effectiveness of those arrangements and making reports and recommendations accordingly;
- (h) Carrying out an assessment and review function for all complaints received by the Council against Councillors and co-opted members;
- (i) Dealing 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 the Ethical Standards Officer to the Monitoring Officer;
- (j) Hearing complaints against Councillors and co-opted members made to the Council or referred back from the Standard Board for England;
- (k) Hearing complaints against co-opted members arising from alleged breaches of Codes and Protocols falling outside the jurisdiction of the Standards Board for England;
- (l) Responding to national reviews and consultations on standards related issues;
- (m) Granting exemptions for politically restricted posts and giving directions to include a post on the list of restricted posts;
- (n) Advising the Council on the appointment of independent members and taking steps to select them.

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### Article 10 - Area Committees

#### 10.01 Area Committees

The Council shall appoint Area Committees in order to ensure improved service delivery and more efficient, transparent and accountable decision making.

#### 10.02 Form, composition and function

- (a) **Composition** - There is no requirement for political balance on Area Committees. The membership comprises all the Members from the relevant area .
- (b) **Terms of Reference** - The terms of reference of the Area Committees are set out in Part 3 of this Constitution. Area Committee meetings shall commence with an open forum, intended as an opportunity for informal public consultation on a broad cross-cutting range of local issues. The remainder of the Area Committee meeting will have a more formal decision-making and advisory structure.
- (c) **Delegations.** The Council and the Cabinet will include details of any delegations to Area Committees in Part 3 of this Constitution.

#### 10.03 Access to Information

Area Committees will comply with the Access to Information Procedure Rules in Part 4 of this Constitution and with the Committee Procedure Rules in Part 4 except where this would be inconsistent with the Protocol on Area Committees.

#### 10.04 Cabinet Members and the Mayor on Area Committees

A member of the Cabinet or the Mayor may serve on the Area Committee if otherwise eligible to do so as a councillor. A Cabinet Member or the Mayor may not serve as a Chair of an Area Committee. ~~because of the Chair's membership of Overview and Scrutiny Committee.~~

## Article 11 - Joint Arrangements

### 11.01 Arrangements to promote well being

The Leader, or the Cabinet with the Leader's agreement, in order to promote the economic, social or environmental well-being of its area, may:

- (a) Enter into arrangements or agreements with any person or body;
- (b) Co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) Exercise on behalf of that person or body any functions of that person or body.

### 11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions that are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee or board within these other local authorities. The Council may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations. These other arrangements are called "boards" in this Constitution.
- (b) The Council may establish joint arrangements with one or more local authorities and their Executives to exercise functions that are partly Executive and partly Non-Executive ("mixed functions"). Such arrangements may involve the appointment of a joint committee or board with these other local authorities or bodies. Where the Council appoints only one Member to such a joint committee, that Member may be, but need not be, a Cabinet Member. Where the Council appoints more than one Member to such a joint committee, at least one of them shall be a Cabinet Member.
- (c) The Leader, or the Cabinet with the Leader's agreement, may establish joint arrangements with the Executives of one or more local authorities or other organisations to exercise functions that are Executive functions or to advise the Cabinet. Such arrangements may involve the appointment of joint committees or boards with these other local authorities or bodies. The Leader, or the Cabinet with the Leader's agreement, may, where the legislation allows, also establish other joint arrangements with, for example, health service organisations.

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- (d) Except as set out below, the Leader or the Cabinet may only appoint Cabinet Members to a joint committee or board and those members need not reflect the political composition of the local authority as a whole.
- (e) The Leader, or the Cabinet with the Leader's agreement, may appoint Members to a joint committee or board from outside the Cabinet in the circumstances where 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 Cabinet may appoint to the joint committee any councillor who is a member for a ward that is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (f) Details of any existing joint arrangements including any delegations to joint committees will be found at the end of this Article.

### 11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee or board are members of the Cabinet in each of the participating authorities then the access to information rules relating to the Executive in the Local Government Act 2000 will apply.
- (c) If the joint committee or board contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 11.04 Delegation to and from other local authorities

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

#### 11.05 Delegation to and from other organisations

- (a) The Council may delegate non-Executive functions to other organisations or boards where legislation allows.
- (b) The Leader, or the Cabinet with the Leader's agreement, may delegate Executive functions to other organisations or boards where legislation allows.
- (c) The decision whether or not to accept such a delegation from another organisation or board shall be reserved to the Council in the case of non-executive or mixed functions and to the Leader, or the Cabinet with the Leader's agreement, in the case of executive functions.
- (d) The Leader, or the Cabinet with the Leader's agreement, may appoint other Cabinet members to act as the Leader's representatives and to exercise executive functions at meetings of the Haringey Strategic Partnership (HSP) and its subordinate bodies. Decisions taken by a Cabinet Member or Members in this way will have immediate effect. For the avoidance of doubt, the same will apply where the Leader sits in person as a member of the HSP or its subordinate bodies.

#### 11.06 Contracting out

The Council for non-executive functions, and the Leader, or the Cabinet with the Leader's agreement, for executive functions, 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 Delegation 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.

#### 11.07 London Councils Arrangements for Co-ordinating Response to Emergencies

- (a) The Council and Cabinet have resolved to delegate their powers under section 138 of the Local Government Act 1972 (power to incur expenditure to avert or alleviate the effects of an emergency or disaster) to an outside Chief Executive appointed to co-ordinate the response of London local authorities to a major incident or a lesser emergency. This "L.A. Gold" will be appointed under arrangements approved by Central Government, London Councils and the London Resilience Team.

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- (b) Where an incident, emergency or other event emerges over a period of time (such as a pandemic or extreme weather), and where the Gold Co-ordination Group ("Gold Command") may not have been convened, L.A. Gold will be empowered on behalf of the London local authorities to co-ordinate any local authority response, as necessary, providing advice and guidance as required. In these circumstances L.A. Gold will not have power to incur expenditure or to exercise delegated powers unless authorised under paragraphs (c)(ii), (d)(ii) or (e) below.
- (c) The delegation of powers under section 138 of the Local Government Act 1972 to L.A. Gold will only have effect in the following circumstances:
  - (i) after the convening of Gold Command, normally led by the Police, in response to the declaration of a major incident, or
  - (ii) for other disruptive events such as extreme weather which do not require the convening of Gold Command, after the convening of a London Partnership Meeting, normally led by the London Resilience Team, provided that the agreement of London Councils (under delegated powers) is also secured.
- (d) Subject to paragraph (e) below, L.A. Gold will only have power to incur expenditure once:
  - (i) the Minister of State confirms that H.M. Government will reimburse expenditure reasonably incurred by L.A. Gold in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience, or
  - (ii) The Council or Councils in whose area the incident occurs confirm that it/they will reimburse expenditure incurred for the purposes in (i) above.
- (e) In the event that L.A. Gold has not been able to receive confirmation from the Council(s) in whose area the incident has occurred that expenditure will be reimbursed, and where it is absolutely essential for L.A. Gold to incur expenditure for the purposes in paragraph (d)(i) above, or to promote community cohesion and a return to normality, it has been agreed that the Council(s) affected will meet that expenditure provide it is kept to minimum levels and does not exceed £1 million in total while confirmation of reimbursement is being sought.

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- (f) All Council officers are authorised to take any action in accordance with instructions issued by the appointed L.A. Gold under the arrangements described above.

### 11.08 Outside Bodies

- (a) Introduction
  - (i) The Council has nomination rights to a large number of different external bodies (referred to as "organisations"). The practice of making nominations to organisations is a benefit to the Council and the links created contribute to the social well-being of the Borough. Some of these arrangements involve the formal delegation of the Council's powers to organisations but this is not true in most cases.
  - (ii) These organisations can be categorised as follows:
    - (A) "Association bodies" e.g. Local Government Association or Association of London Government joint committees and panels,
    - (B) "Statutory bodies" i.e. where Haringey needs to be represented by law, for example, the Alexandra Park & Palace Advisory Committee,
    - (C) "Partnership bodies" which usually involve the Council working with other agencies on local issues or projects, for example, the Haringey Strategic Partnership,
    - (D) "Trusts and Foundations" which generally have more specific and prescribed objectives, for example, the Tottenham Grammar School Foundation, and
    - (E) "Voluntary/Community bodies" which cover a very wide spectrum of organisations serving the community, or community groups, in various ways.
    - (F) "School Governing bodies" are independent organisations but the precise relationship to the Council varies according to the type of School.
- (b) Nominations Procedure
  - (i) Nominations to all organisations will be made or confirmed at each Annual General Meeting (AGM) of the Council. In the case of Association and "Partnership" bodies, which mainly exercise "executive" functions at present, nominations of Cabinet Members will be made by the Leader, or the Cabinet with the Leader's agreement, and merely recorded in the complete list approved at the AGM.
  - (ii) The capacity in which Members are nominated, the duration of the appointment and any other relevant terms and conditions

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will be set out in the report to the AGM and recorded in the minutes. Nominations will be stated as being made "at the request of the Council".

- (iii) A full list of existing and newly nominated or appointed Councillors will be presented to the next meeting of full Council after the AGM setting out the name of the organisation, terms of appointment and status or capacity of the Councillor within the organisation.
  - (iv) Future nominations to voluntary or community bodies will generally be in a non-voting, "observer" capacity only, in order to avoid the greater potential for conflicts of interest. Nominated Members will not participate in management or decision-making within the organisation. Their role will be to assist in the exchange of information and views between the organisation and the Council.
  - (v) Nominations to other organisations will generally be in a full, voting capacity i.e. the Member should participate fully in management and decision making within the organisation, as appropriate, and should vote at its management committee. Exceptions would be made where the organisation so requested or its own constitution or ground rules so required. Nominations to trusts, for example, would have to be in a full, voting (not an "observer") capacity since the purpose of the nomination would be for the Member to have a decision making role.
- (c) Members' Conduct
- (i) The Members' Code of Conduct, as set out in the Council's Constitution, applies to Members' activities as representatives in any capacity on any outside body.
  - (ii) In addition, nominated Members will be required to observe the Constitution or rules of the organisation itself, except in so far as there might, unusually, be a conflict with the Council's Members' Code of Conduct. Members should seek advice from the Monitoring Officer if they think that any such conflict could arise.
  - (iii) Members may also be under legal duties imposed in respect of their roles in specific types of organisation e.g. as Directors of Limited Companies or as Charity Trustees. Further Guidance will be available to Members outside the text of this Constitution.

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**Article 12 – Officers**

12.01 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 directorates, who will be designated chief officers:

<b>DIRECTORATE</b>	<b>SERVICES</b>
<b><u>URBAN ENVIRONMENT PLACE &amp; SUSTAINABILITY</u></b>	<i>Planning Enforcement <u>Safer Communities</u> Streetscene Regeneration <u>Recreation</u> <u>Libraries, Museums</u> <u>Property</u> <del>Housing</del> Neighbourhood Regeneration Delivery ( SRB) Capital Programme</i>
<b>CHILDREN &amp; YOUNG PEOPLE</b>	<i>Children &amp; families School standards &amp; inclusion Service delivery &amp; performance Business support &amp; development</i>
<b>ADULTS &amp; <u>HOUSING</u> COMMUNITY SERVICES</b>	<i>Adults Older People <u>Housing</u> <del>Recreation</del> <u>Libraries, Museums</u> Adult Learning</i>
<b><u>POLICY, PERFORMANCE, PARTNERSHIPS, COMMUNICATIONS</u> ASSISTANT CHIEF EXECUTIVE</b>	<i>Improvement &amp; performance Partnerships Strategy &amp; Policy development Knowledge management Communications, consultation &amp; reputation Community engagement <del>Safer Communities Equalities</del> Emergency Planning <u>Organisational Development</u> <u>Personnel</u> <u>Learning &amp; Development</u> <u>Local Democracy &amp; Member Services</u></i>
	<i>Benefits &amp; Local Taxation</i>

<b>DIRECTORATE</b>	<b>SERVICES</b>
<b>CORPORATE RESOURCES</b>	<b>Corporate Finance</b> <b>Corporate Procurement</b> <b>Audit &amp; Risk Management</b> <del><b>Property</b></del> <b>IT</b> <b>Legal</b> <b>Customer Services</b>
<del><b>PEOPLE</b></del> & <b>ORGANISATIONAL DEVELOPMENT</b>	<del><b>Organisational Development</b></del> <del><b>Personnel</b></del> <del><b>Learning &amp; Development</b></del> <del><b>Local democracy &amp; Member Services</b></del> <del><b>Health, safety</b></del>

- (c) Head of Paid Service, Monitoring Officer and Chief Financial Officer.

The Council will designate the following posts:

Head of Paid Service  
Monitoring Officer  
Chief Financial Officer

Such posts will have functions described in Article 12.02 - 12.04 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out in Appendix D to this Constitution.

### 12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

### 12.03 Functions of the Monitoring Officer

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- (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 Financial Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he or she considers that any 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) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council
- (d) **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. ~~The Monitoring Officer will be responsible for making periodic statutory returns of information to the Standards Board for England.~~
- (e) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Standards Committee. ~~ethical standards officers and decisions of the case tribunals.~~
- (f) **Conducting investigations.** The Monitoring Officer, or investigators appointed by him/her ~~in consultation with the Chair of the Standards Committee~~, will conduct investigations into matters referred ~~by ethical standards officers or~~ by the Standards Committee or one of its sub-committees and make reports on recommendations in respect of them to the Standards Committee.
- (g) **Proper officer for access to information.** The Head of Local Democracy & Member Services shall ensure that Cabinet and other Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible. The Monitoring Officer will advise and assist to ensure the proper performance of these functions.
- (h) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer and the Chief Financial Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

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- (i) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors. The monitoring officer will report on new and amended legislation to Council so that Members can consider the effects on services and the possible need to amend the scheme of delegations.
- (j) **Restrictions on posts.** The Monitoring Officer cannot be the chief finance officer or the head of paid service.

### 12.04 Functions of the Chief Financial 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 Cabinet in relation to an Cabinet 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 of 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 thorough the provision of professional financial advice.
- (d) **Providing advice.** The Chief Financial Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Financial Officer will provide financial information to the media, members of the public and the community.

### 12.05 Duty to provide sufficient resources to the Monitoring Officer and the Chief Financial 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.

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### 12.06 Conduct

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

### 12.07 Employment

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

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### Article 13 - Decision Making

#### 13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas of functions. This record is set out in Part 3 of this Constitution or an Appendix to it.

#### 13.02 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 in particular, giving consideration to such issues at an early stage in the process;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

Furthermore, the Council will explain what options were considered and give reasons for the decision.

#### 13.03 Types of decision

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

A key decision is a Cabinet decision which is likely:

- (i) 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
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

## PART TWO - ARTICLES OF THE CONSTITUTION

A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4, the Access to Information Procedure Rules set out in Part 4 and the Protocol for Key Decisions set out in Part 5.

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

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

### **13.05. Decision making by the Cabinet**

Subject to Article 7 the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.06 Decision making by the Overview and Scrutiny Committee**

Subject to Article 6, the Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

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

Subject to Article 8, other Council Committees and Sub-Committees will follow those parts of the Standing Orders set out in Part 4 of this Constitution as apply to them.

### **13.08 Decision making by Chief Officers**

Subject to Article 12, Chief Officers shall follow the scheme of delegation, as set out in Part 3 of this Constitution and any Appendix to it, when considering any matter.

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

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

## PART TWO - ARTICLES OF THE CONSTITUTION

### Article 14 - Finance, Contracts and Legal Matters

#### 14.01 Financial management

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

#### 14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

#### 14.03 Legal proceedings

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

#### 14.04 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 Head of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract shall comply with the Council's Contract Standing Orders as outlined in Part 4 of this Constitution.

#### 14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed or where required by the Contract Procedure Rules in Part 4 of this Constitution. The affixing of the Common Seal will be attested by the Head of Legal Services or some other person authorised by him/her either in relation to a specific document or to particular categories of documents.

## PART TWO - ARTICLES OF THE CONSTITUTION

### Article 15 - Review and Revision of the Constitution

#### 15.01 Duty to monitor and review the Constitution

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.

#### 15.02 Protocol for monitoring and review of Constitution by monitoring officer

A key role for the monitoring officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the monitoring officer may:

- (a) Observe meetings of different parts of the member and officer structure;
- (b) Undertake an audit trail of a sample of decisions;
- (c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- (d) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

#### 15.03 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution, including the Scheme of Members' Allowances, will only be approved by the full Council after recommendation of the proposal by an informal Member group convened by the Leader and following advice from the Monitoring Officer save that authority is delegated to the Monitoring Officer to make any changes required as a result of legislative change or decisions of the Council or Cabinet to further enable him / her to maintain it up to date.
- (b) **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. If the proposals were to change the Executive Arrangements to a form with an elected Mayor, then a local referendum would be required.

## PART TWO - ARTICLES OF THE CONSTITUTION

### Article 16 - Suspension, Interpretation and Publication of the Constitution

#### 16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any Rule will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### 16.02 Interpretation

The ruling of the Mayor (or other person presiding in the Mayor's absence) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

#### 16.03 Publication

- (a) The Constitution is available on the Council's website. The Chief Executive will give on request a printed copy of this Constitution to a Member of the authority.
- (b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee. The Chief Executive will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Part Three, Section A

## Local Choice Functions

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### Local Choice Functions

By law some local authority functions cannot be the responsibility of the Council’s Cabinet and these are called the “Non-Executive” functions. Other functions, particularly the preparation and approval of certain plans and strategies, are partly “Executive” and partly “Non-Executive”. Those functions not otherwise specified fall within the responsibility of the Cabinet.

In addition, there are a few “Local Choice” functions set out in Regulations where the local authority is free to chose in its constitution whether the function is, basically, “Executive” or “Non-Executive”. The Cabinet may delegate or allocate any of its functions to an individual Cabinet Member, a Committee of the Cabinet or an officer and the Council may delegate any of the “Non-Executive” functions to a Committee, Sub-Committee or an officer. The list below shows where these “Local Choice” functions are allocated in this Constitution and the body or person expected to exercise the delegated decision-making powers. In the event that a Member body or an officer post has its name changed, the allocation/delegation in the list below will continue in force provided that there is no material change to the terms of reference of the body or the responsibilities of the post

Function	Whether Executive or Non-Executive	Where allocated or delegated
1. Any Function under a Local Act (except a function specified or referred to in Reg. 2 or Schedule 1)	Non-Executive	<del>General Purposes</del> <i>Corporate</i> Committee except for functions under the Alexandra Park & Palace Acts & Order 1900-1985 which are delegated to the Alexandra Park & Palace Board and the General Manager AP&P
2. The determination of an appeal against any decision made by or on behalf of the authority	Non-Executive	<del>General Purposes</del> <i>Corporate</i> Committee (for the avoidance of doubt this does not include internal reviews of homelessness decisions)
3. The appointment of review boards under sub-section 34(4) of the Social Security Act 1998 (determination of claims and	Non-Executive	The Full Council

PART THREE – RESPONSIBILITY FOR FUNCTIONS  
Section A – Local Choice Functions

Function	Whether Executive or Non-Executive	Where allocated or delegated
reviews re: Housing Benefit and Council Tax Benefit)		
4. The making of arrangements for appeals against exclusion of pupils	Executive	Head of Local Democracy & Member Services
5. Making arrangements for admission appeals	Executive	Head of Local Democracy & Member Services
6. Making arrangements for appeals by governing bodies	Executive	Head of Local Democracy & Member Services
7. Any function relating to contaminated land	Executive	Cabinet Member for the relevant portfolio within his/her delegated powers, otherwise to the Cabinet Meeting
8. Discharge of any function relating to the control of pollution or the management of air quality	Executive	Assistant Director <u>Planning &amp; Regeneration Single Frontline</u> in the Directorate of <u>Place &amp; Sustainability Urban Environment</u>
9. Service of an abatement notice in respect of a statutory nuisance	Executive	Assistant Director <u>Planning &amp; Regeneration Single Frontline</u> in the Directorate of <u>Place &amp; Sustainability Urban Environment</u>
10. Passing a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the Council's area (resolution to require Council consent to operating loudspeakers in streets)	Non-Executive	<u>General Purposes Corporate Committee</u>
11. Inspection of the Council's area to detect any statutory nuisance	Executive	Assistant Director <u>Planning &amp; Regeneration Single Frontline</u> in the Directorate of <u>Place &amp; Sustainability Urban Environment</u>
12. Investigating any complaint as to the existence of a statutory nuisance	Executive	Assistant Director <u>Planning &amp; Regeneration Single Frontline</u> in the Directorate of <u>Place &amp; Sustainability Urban Environment</u>
13. Obtaining information as to interests in land under section 330 Town and Country Planning Act 1990	Executive	Head of Legal Services
14. Obtaining particulars of persons interested in land under section 16 of the Local Government (Misc. Prov.) Act 1976	Executive	Head of Legal Services
15. Making agreements for the execution of highway works under section 278 of the Highways Act 1980	Non-Executive	Assistant Director, <u>Single Frontline Services</u> and Head of <u>Traffic Management Sustainable Transport</u> except where referred to the Planning Sub-Committee in connection with the

PART THREE – RESPONSIBILITY FOR FUNCTIONS  
Section A – Local Choice Functions

Function	Whether Executive or Non-Executive	Where allocated or delegated
		determination of a planning application
16. The appointment (and revocation of such appointment) of any individual (a) to any office other than his normal employment by the Council (b) to any body other than (i) the Council or (ii) a joint committee of two or more authorities or (c) to any committee or sub-committee of such a body	Executive	The Full Council in the case of Member appointments <del>(but Cabinet may make HSP appointments)</del> . The Chief Executive makes officer appointments.
17. Making agreements with other local authorities for placing staff at the disposal of other local authorities	Executive	Chief Executive
18. Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements	Executive	The Cabinet Meeting except that the duty to publish information about the LAA is delegated to the Assistant Chief Executive, <del>Policy, Performance, Partnerships and Communications</del>

## Part Three, Section B Budget & Policy Framework Schedule

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### The Budget and Policy Framework Schedule

The Council has reserved the power to approve policies, plans and strategies that are specified in the Council's Policy Framework as well as consider any matter of delegated business remitted to it for decision by the Cabinet, a non-executive Committee or Chief Officer.

The Council's Policy Framework means (i) the plans and strategies required to be approved at full Council under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) or (ii) those plans and strategies that the Council itself has determined shall be reserved to the full Council for approval.

A complete list of all the plans and strategies comprising the Council's Policy Framework is set out below.

- (a) Overarching Strategies:
- (i) Sustainable Community Strategy; and
  - ~~(ii)~~ Core Strategy, Local Development Framework
  - (iii) Such other strategies that the full Council is required to adopt as a matter of law.
- (b) ~~Major Service Plans: Key Documents:~~
- (i) Housing Strategy;
  - ~~(ii)~~ ~~Unitary Development Plan~~;
  - ~~(iii)~~ ~~Single Education Plan~~;
  - ~~(iv)~~ ~~Strategy for Children and Young People~~;
  - ~~(v)~~ ~~(ii)~~ ~~Local Transport Plan~~; Local Implementation Plan
  - ~~(vi)~~ ~~Statement of Licensing Policy~~
  - ~~(vii)~~ ~~(iii)~~ Statement of Gambling Policy
  - ~~(viii)~~ ~~(iv)~~ Youth Justice Plan
  - ~~(ix)~~ ~~(v)~~ Such other service plans that the full Council is required to adopt as a matter of law.
- (c) a small number of plans required from partnerships of which the authority is a member:
- (i) ~~Crime and Disorder Reduction Partnership/Drug Action Team Strategy~~ Community Safety Strategy, and
  - ~~(ii)~~ ~~Connexions Business Plan~~
- (d) Such other plans and strategies that Haringey Council decides should be reserved for the full Council for approval and adopted by it.

# Part Three, Section C

## Terms of Reference:

### Full Council & Non-Executive Bodies

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#### SECTION 1 - THE COUNCIL

##### THE COUNCIL

Only the Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Approving or adopting the policy framework as set out in Article 4, above;
- (c) Approving the budget and levying Council Tax;
- (d) Determining the borrowing limits for the authority for each financial year and the proportions of borrowing that are to be set at variable rates;
- (e) Approving any application to the Secretary of State in respect of any Housing Land Transfer as set out in Article 4;
- (f) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet 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;
- (g) Appointing the Leader;
- (h) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them and delegating functions to them from time to time as may be appropriate;

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (i) Agreeing recommendations arising from Scrutiny Reviews of non-executive functions;
- (j) Deciding on recommendations arising from Scrutiny Reviews not accepted by the Cabinet and referred by the Chair of Overview and Scrutiny Committee;
- (k) Agreeing and/or amending the Scheme of Delegations to Officers with respect to non-executive functions;
- (l) Appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (m) Adopting and amending the Members' Allowances Scheme;
- (n) Changing the name of the area, conferring the title of honorary alderman or freedom of the borough and establishing any new Civic Link;
- (o) Confirming the appointment or dismissal of the head of paid service;
- (p) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills including the adoption of any legislation where the Council has a discretion;
- (q) All local choice functions set out in Part 3 to this Constitution which the Council decides should be undertaken by itself rather than the Cabinet, or any Committee, Sub-Committee or officer;
- (r) Entering into, or confirming existing, joint arrangements with other local authorities unless this only concerns "executive" functions when the decision is for the Cabinet;
- (s) Adopting the Members' Code of Conduct;
- (t) Approving Pilot Schemes for Local Elections;
- (u) Resolving not to issue any casino premises licences in the next three years;
- (v) Adopting Standing Orders for the Council and Standing Orders as to Contracts;

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (w) Making any decisions in respect of non-Executive functions which have not been expressly delegated elsewhere;
- (x) All matters that must be reserved to Council under the Financial Regulations including the adoption and amendment of the Treasury Management Strategy Statement and the consideration of annual, mid-year monitoring reports and an out-turn report after the close of the year on treasury management policies and practices; and
- (y) All other matters that, by law, must be reserved to Council.

## SECTION 2 - COMMITTEES

The following shall be committees of the Council and they shall have the membership as described in the Appointments of Committees, Sub-Committees, Panels, etc (as approved by the Annual Meeting):

1. The Corporate Committee
2. Overview and Scrutiny Committee
3. Standards Committee
4. Alexandra Palace and Park Board
5. The Regulatory Committee

The Terms of Reference of each Committee shall be as set out on the following pages:

1. The Corporate Committee

The Corporate Committee has: -

- (a) all the functions listed below in (b) and stated not to be the responsibility of the Council's Executive/Cabinet in Reg. 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S.I. 2853 (as amended or further amended in any statute or subordinate legislation). References to paragraphs below are to those in the appropriate Schedule of the Regulations.
- (b) the following Schedule 1 functions:

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (i) Paragraph C - Health and Safety at Work; all functions discharged otherwise than in the Council's capacity as employer.
- (ii) Paragraph D - Elections; all functions relating to Elections except the approval of pilot schemes for local elections which is reserved to full Council.
- (iii) Paragraph H - Pensions; Determining the Council's policies as "Employing Authority" and determining the terms of release of Chief and Deputy Chief Officers aged 55 or over and made redundant or retired early with a claim on the pension scheme. Exercising all the Council's functions as "Administering Authority" and being responsible for the management and monitoring of the Council's Pension Fund and the approval of all relevant policies and statements. This includes:
  - (A) Selection, appointment and performance monitoring of investment managers, AVC scheme providers, custodians and other specialist external advisers;
  - (B) Formulation of investment, socially responsible investment and governance policies and maintaining a statement of investment principles;
  - (C) Monitoring the Pension Fund Budget including Fund expenditure and actuarial valuations; and

**Note:** Whenever the Corporate Committee considers a report on a Pensions matter, the Chair will make a short announcement at the beginning or at other appropriate stage(s) in the meeting indicating whether the Committee is operating in its capacity as "Employing Authority" or as "Administering Authority". When the Committee is operating in its capacity as "Administering Authority" Members must have regard to their duty as quasi-trustees to act in the best interests of the Pension Fund above all other considerations. When the Committee meets in this capacity its membership shall include as non-voting members one representative of each of these groups: (i) current pensioners, (ii) deferred members of the scheme, and (iii) other admitted bodies.

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (iv) Paragraph I - Miscellaneous; all functions except those retained by full Council in Article 4. The Committee's functions include:
  - (A) all functions relating to public rights of way in Part 1 except the creation, stopping up and diversion of highways, footpaths and bridleways in connection with development control decisions which are delegated to the Planning Sub-Committee;
  - (B) making arrangements for proper administration of financial affairs under section 151 Local Government Act 1972 but the appointment or dismissal of the Chief Finance Officer is to be in accordance with the Officer Employment Procedure Rules in Part 4;
  - (C) formulating the Treasury Management Strategy Statement and amendments to it for recommendation to full Council through Overview and Scrutiny Committee and in consultation with the Cabinet Member for Finance. Receiving quarterly monitoring reports and an out-turn report after the close of the year on treasury management policies and practices;
  - (D) approving statements under The Accounts and Audit Regulations 2003 and any amendment or re-enactment of the Regulations and considering the external auditor's report on issues arising from the audit of the accounts or any other concerns relating to accounting policies;
  - (E) determining the terms and conditions of service of those staff below Senior Management grades, including procedures for dismissal. The Committee's functions include monitoring the operation and effectiveness of the scheme for the performance appraisal and remuneration of the Council's senior managers and chief officers. The Committee agrees the terms and conditions of employment, the pay structure and the remuneration for these senior posts;
  - (F) authorising the making of payments or the provision of other benefits in cases of maladministration;
  - (G) making orders designating public places in order to confer power on the police to prevent nuisance by the consumption of alcohol.
  - (H) taking decisions relating to changes to the establishment which are not covered by the Officer Scheme of Delegation.

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (c) the following “Local Choice” functions set out in Schedule 2 of the above Regulations: -
- (i) any function under a local Act other than a function specified or referred to in Reg. 2 or Schedule 1 or expressly delegated elsewhere in this Constitution;
  - (ii) the determination of an appeal against any decision made by or on behalf of the authority;
  - (iii) passing a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the Council’s area (consent to the operation of loudspeakers).
- (d) the Committee has the following Audit functions:
- (i) providing assurance about the adequacy of the Council’s Risk Management Framework and Policy and monitoring the effectiveness of systems for the management of risk across the Council and compliance with them;
  - (ii) Maintaining an overview of the Council’s Local Code of Corporate Governance;
  - (iii) Monitoring the effectiveness of Council policies on “Whistleblowing” and Anti-Fraud and Corruption;
  - (iv) Considering and recommending for adoption the Council’s Annual Governance Statement;
  - (v) Approving the Annual Internal Audit Plan and the Strategic Audit Plan and arrangements for the provision of internal audit services to the Council and considering reports on internal audit activity;
  - (vi) Receiving the Annual Audit Plan and the Annual Audit Letter from the external auditor and making recommendations on the latter. Considering arrangements for the appointment of the external auditor;
  - (vii) Commissioning work from the internal and external auditors and receiving reports from the Head of Audit & Risk Management on any matter; and
  - (viii) Questioning officers and Cabinet Members on matters relevant

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

to audit and to financial and non-financial performance and making recommendations on these matters to Cabinet and full Council.

- (ix) The Head of Audit's Annual Report
- (e) the power to make recommendations to the Council on any of its functions set out in Article 4, and the power to establish Sub-Committees to consider and report on any such functions but this does not include recommendations to amend the Council's Constitution nor does it prevent the Council from making decisions on any matter when necessary without a prior recommendation from the Committee.
- (f) there is a Protocol outside this Constitution setting out how the Corporate Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

#### 2. Overview and Scrutiny Committee

~~— The membership of the Overview and Scrutiny Committee shall, as far as is practicable, comprise Members who are Chairs of Area Committees and, if necessary, other Members in order to comply with the political balance rules. As described in the Overview and Scrutiny Procedure Rules in Part 4 Section G, Education representatives have a right to vote where the Committee or a Panel is considering matters that relate to education functions.~~

The Overview and Scrutiny Committee may:

- (a) exercise an overview of the forward plan;
- (b) review or scrutinise decisions made or actions taken in connection with the discharge of any of the Cabinet's or Council's functions;
- (c) make reports and recommendations to the full Council, the Cabinet or relevant non-Executive Committee in connection with the discharge of any functions;
- (d) make reports or recommendations on matters affecting the

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

area or its inhabitants;

- (e) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet;
- (f) receive the reports and recommendations of its Scrutiny Review Panels;
- (g) in accordance with statutory regulations to review and scrutinise matters relating to the health service and all NHS funded services within the Authority's area and to make reports and recommendations thereon to local NHS and NHS funded bodies;
- (h) review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible partner authorities of their crime and disorder functions;
- (i) make reports or recommendations to the Cabinet or full Council where appropriate with respect to the discharge of the crime and disorder functions by the responsible partner authorities;
- (j) make arrangements which enable any Councillor who is not a Committee Member to refer any crime and disorder matter to the Committee under the Councillor Call for Action procedure; and
- (k) make arrangements which enable any Councillor who is not a Committee Member to refer to the Committee any local government matter which is relevant to the functions of the Committee under the Councillor Call for Action procedure.
- (l) there is a Protocol outside this Constitution setting out how the Overview and Scrutiny Committee is to operate. The Protocol shall be applied in a manner consistent with the Committee Procedure Rules in Part 4 and any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

### 3. Standards Committee

The Standards Committee will have the following roles and functions:

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and representatives of religious organisations and parent governor representatives;
- (b) Assisting the Leader, Councillors, co-opted members and representatives of religious organisations and parent governor representatives to observe the Members' Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct and the ethical framework;
- (f) Granting dispensations to the Elected Mayor, Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) Advising the Council on codes and protocols forming the Council's ethical framework and its governance arrangements, monitoring the effectiveness of those arrangements and making reports and recommendations accordingly;
- (h) Carrying out an assessment and review function for all complaints received by the Council against Councillors and co-opted members;
- (i) Dealing 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 the Ethical Standards Officer to the Monitoring Officer;
- (j) Hearing complaints against Councillors and co-opted members made to the Council or referred back from the Standard Board for England;
- (k) Hearing complaints against co-opted members arising from alleged breaches of Codes and Protocols falling outside the jurisdiction of the Standards Board for England;
- (l) Responding to national reviews and consultations on standards

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

related issues;

- (m) Granting exemptions for politically restricted posts and giving directions to include a post on the list of restricted posts;
- (n) Advising the Council on the appointment of independent members and taking steps to select them.

#### 4. Alexandra Palace and Park Board

To fulfil the functions, powers and duties of the Council as Trustee of Alexandra Palace and Park under the Alexandra Park and Palace Acts and Order 1900 to 1985 and, without prejudice to the generality of this, these functions include:

- (a) The duty to uphold, maintain and repair the Palace and to maintain the Park and Palace as a place of public resort and recreation and for other public purposes.
- (b) Acting as the employing body for employees engaged in the working of the Trust at Alexandra Palace, and to be responsible for the setting of staffing policies, conditions of service and terms of employment of those employees.
- (c) In relation to the Trust, being responsible for developing and monitoring the implementation of effective policies and practices to achieve equality of opportunity both for employment and service delivery.

#### 5. The Regulatory Committee

The Regulatory Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, Town Planning and other regulatory matters generally. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as “statutory Licensing Committee” or as a “non-statutory Committee”.

##### Membership

The Regulatory Committee must have between 10 and 15 Members in

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

order to comply with the legislation as statutory Licensing Committee.

#### Protocol

There is a Protocol outside this Constitution setting out how the Regulatory Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

(1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:

- (a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;
- (b) To establish the Licensing Sub-Committees and to agree the delegation of functions to the Sub-Committees and to officers;
- (c) To receive reports on the matters in (a) above and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;
- (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
- (e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;
- (f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the Committee who are re-elected as Councillors shall meet as the Committee (subject to there being a quorum of 3

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

Members) in order to exercise any of the functions of the Licensing Sub-Committees, or of the Committee under (f) above, and shall elect a Chair for the meeting.

- (2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:
  - (a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees;
  - (b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;
  - (c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;
  - (d) Making informal recommendations to the Cabinet and full Council on local development documents, development plan documents, the local development framework, the statement of community involvement and any other planning policy matter;
  - (e) Reviewing all Council plans and policies on any licensing, planning or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
  - (f) Making informal recommendations to the Cabinet and

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, planning, conservation or regulatory issues.

#### SECTION 3 - SUB-COMMITTEES AND PANELS

The following bodies shall be created as Sub-Committees of the relevant Committee of the Council under which they are listed. Bodies described as "Panels" are Sub-Committees unless otherwise stated. Sub-Committees shall report to their parent bodies and they shall have the membership as described in the Appointments of Non-Executive Committees, Sub-Committees, Panels, etc as approved by the Annual Meeting

#### 1. Under the Corporate Committee

##### 1.1 Disciplinary Appeals Panel

To confirm, reduce or increase the penalty imposed by previous internal disciplinary hearings.

##### 1.2 Grievance Panel

To determine grievances lodged by employees of the Council in relation to their terms and conditions of service, in accordance with the approved procedures.

##### 1.3 Job Evaluation Appeals Panel

To determine job evaluation appeals lodged by employees of the Council in accordance with the approved procedures.

##### 1.4 Haringey Council and Employees Joint Consultative Sub-Committee

- (a) To negotiate on matters relating to the service between the Council and the officers or between officers with a view to the prevention of differences and to their better adjustment when they appear, and to make appropriate recommendations to the Corporate Committee.

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (b) To secure the largest possible measure of joint action between the Council and the officers for the development and improvement of local government administration, and for the consideration of the conditions of all engaged therein.
- (c) To make provision for members of the Cabinet to meet with Employees' Side representatives for the purpose of negotiation and consultation on matters affecting Soulbury paid officers.

## 2. Under Overview and Scrutiny Committee

### 2.1 Scrutiny Review Panels

- (a) To carry out scrutiny processes relevant to particular services/~~topics~~ as determined by Overview and Scrutiny Committee and within the parameters, protocols and procedures agreed by Overview and Scrutiny Committee for all Scrutiny Review Panels.
- (b) Within these scrutiny processes to request and receive submissions, information and answers to questions from Cabinet Members, officers and other senior employees of the Council, service users, external experts and relevant members of the public.
- (c) To refer the findings/recommendations in the form of a written report, ~~within the agreed time scale and~~ with the approval of the Overview and Scrutiny Committee, to The Cabinet and/or the Council as appropriate.

## 3. Under Standards Committee

The following rules will apply to all three types of Sub-Committee listed below. The quorum is three including an independent member as Chair, with a casting vote if necessary, and at least one Councillor. So far as practicable, and having regard to relevant Regulations and Guidance, every Sub-Committee will include two Councillors, each from a different party group.

### 3.1 Assessment Sub-Committees

Between three and five members of the Committee.

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### Section C – Terms of Reference: Full Council & Non Executive Bodies

To make initial assessments of written allegations to the Committee of failure to comply with the Code of Conduct. The Sub-Committees will follow procedures agreed by the Committee.

#### 3.2 Review Sub-Committees

Between three and five members of the Committee. Not to include any member of the Assessment Sub-Committee for the same allegation.

To review, when requested, any decision of an Assessment Sub-Committee to take no action on an allegation. The Sub-Committees will follow procedures agreed by the Committee.

#### 3.3 Hearing Sub-Committees

Five members of the Committee.

To hear complaints against Councillors and co-opted members made to the Council or referred back from the Standards Board for England. The Sub-Committees will follow procedures agreed by the Committee.

### 4. Under The Regulatory Committee

#### 4.1 Licensing Sub-Committees

##### Introduction

The Licensing Sub-Committees have functions either (1) as Sub-Committees of the Regulatory Committee in its capacity as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as Sub-Committees of the Regulatory Committee in its capacity as a non-statutory Committee exercising non-executive licensing and regulatory functions. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Sub-Committee is operating in its capacity as “statutory Licensing Sub-Committee” or as a “non-statutory Sub-Committee”.

##### Membership

The membership of each Sub-Committee is nominated by the Annual

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

Council but formally appointed by the Regulatory Committee each year. In the event that an appointed Member or Members of a Sub-Committee is unable or unwilling to take part in a hearing for any reason a Special Licensing Sub-Committee may be appointed from among the Members of The Regulatory Committee. When operating in its capacity as “statutory Licensing Sub-Committee” there must be a membership and quorum of 3 present at all times.

(1) General Provisions Relating to the Statutory Licensing Sub-Committees

(a) Licensing Sub-Committees have the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Regulatory Committee;

Functions under both the Licensing Act 2003 and the Gambling Act 2005

- (b) To determine applications for premises licences where relevant representations have been made;
- (c) To determine applications for provisional statements where relevant representations have been made;
- (d) To determine valid applications for review of premises licences;
- (e) To decide on any other matter where it is necessary or desirable for Members to make that decision;

Functions under the Licensing Act 2003 alone

- (f) To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- (g) To determine applications to vary designated premises supervisors following police objections;
- (h) To determine applications for transfer of premises licences following police objections;
- (i) To consider police objections made to interim authority notices;

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (j) To determine applications for club premises certificates where relevant representations have been made;
- (k) To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- (l) To determine valid applications for review of club premises certificates;
- (m) To decide whether to give counter notices following police objections to temporary event notices;
- (n) To determine applications for grants of personal licences following police objections;
- (o) To determine applications for renewals of personal licences following police objections;
- (p) To decide on revocation of personal licences where convictions come to light after grant;

#### Functions under the Gambling Act 2005 alone

- (q) To determine applications for variations of premises licences where relevant representations have been made;
- (r) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- (s) To determine applications for the re-instatement of premises licences where relevant representations have been made;
- (t) To decide whether to give counter notices following objections to temporary use notices;
- (u) To determine applications for the grant of club gaming permits and club machine permits where objections have been received;
- (v) To determine proposals to cancel club gaming permits and club machine permits where the holder requests a hearing;

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (w) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
  - (x) To determine licensed premises gaming machine permit applications for 5 or more machines and all applications for any number of machines where there is cause for concern about the proper management of the premises;
- (2) General Provisions Relating to the Non-Statutory Licensing Sub-Committees
- a) The Sub-Committees have all the functions which are stated not to be the responsibility of the Council's Executive/Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S. I. 2853, as amended, or further amended, in any statute or subordinate legislation. The Sub-Committee's remit includes the licensing of street trading, special treatment premises, sex establishments and dog breeding establishments.
  - (b) The Sub-Committees make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
  - (c) The Sub-Committees have the power to make final decisions on behalf of the Council in relation to its functions in (b).
  - (d) Excluded from the Sub-Committees' terms of reference are decisions on all policy issues, procedures and standard terms and conditions which are within the remit of The Regulatory Committee.

#### 4.2 Planning Sub-Committee

- (a) The Sub-Committee has all the functions which are set out in (b) and (c) below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities)

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### Section C – Terms of Reference: Full Council & Non Executive Bodies

(England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1);

- (b) paragraph A - Town Planning (all functions), including determination of applications for planning permission, conservation area consent, listed building consent and advertisements consent, entering into planning agreements and enforcement of planning and listed building controls;
- (c) paragraph I - Miscellaneous Functions;
  - (A) the creation, stopping up and diversion of highways, footpaths and bridleways in connection with development control decisions, and
  - (B) the preservation of trees;
- (d) The Sub-Committee may enter into highway works agreements under section 278 of the Highways Act 1980 in connection with the determination of a planning application.

## SECTION 4 - ALEXANDRA PALACE AND PARK

Arising from the Council's role as trustee of Alexandra Palace and Park the following additional bodies shall be established. Membership of the additional bodies is as described in the Appointments of Non Executive Committees, Sub-Committees, as approved by the Annual Meeting. The Terms of Reference of the additional bodies shall be as follows:

### 1. Alexandra Palace and Park Panel

To consider and take decisions upon urgent matters arising between ordinary meetings of the Alexandra Palace and Park Board. The Panel is composed of four Members, selected with reference to political balance.

### 2. Alexandra Palace and Park Consultative Committee

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### Section C – Terms of Reference: Full Council & Non Executive Bodies

Alexandra Palace and Park Consultative Committee 7 Members and up to 30 community representatives.

- (a) To give representatives of appropriate local and national organisations the opportunity of full discussion with Members of the Alexandra Palace and Park Board on general matters affecting Alexandra Palace and Park.
- (b) To give Members of the Alexandra Palace and Park Board the opportunity of discussing and explaining to the organisations matters affecting the overall policy and efficient management of Alexandra Palace and Park.
- (c) To promote better understanding between Members of the Alexandra Palace and Park Board, the Palace Management and local organisations.
- (d) To enable appropriate local (and national) organisations to be fully consulted on decisions of direct concern to them.
- (e) To promote the best interests of the Alexandra Palace and Park as a conservation area.

#### 3. Alexandra Palace and Park Consultative Forum

Alexandra Palace and Park Consultative Forum 4 Members plus 4 Trade Union representatives

- (a) To be a forum for consultation and negotiation between the Alexandra Palace and Park Board and its employees, on issues in relation to Conditions of Employment.
- (b) To consider issues referred directly by Management or by the Trade Unions in consultation with the Employer's Side Secretary.
- (c) To provide a means whereby the Alexandra Palace and Park Board can consult Union representatives on policies and strategies and provide an arena for discussion of matters of mutual interest.
- (d) To provide a means of effective communication, in

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

order to prevent or eliminate friction and misunderstanding.

The Consultative Forum may not consider any matter concerning an individual employee, nor any issues that fall within the scope of other existing procedures, e.g. dismissal appeals, individual grievances and individual salary issues; such matters may only be raised as a matter of principle/policy.

#### Note:

The Alexandra Palace and Park Board also receives advice from the Alexandra Park and Palace Statutory Advisory Committee, an external body established under the terms of the Alexandra Park and Palace Act 1985. Its functions, as laid down by the Act are as follows: -

The powers and duties of the Advisory Committee shall be to promote the objects of the charity and assist the Trustees in fulfilling the trusts by considering and advising the Trustees on the following matters.-

- (a) the general policy relating to the activities and events arranged or permitted in the Park and Palace;
- (b) the effects of such activities and events upon the local inhabitants and local environment;
- (c) the frequency of activities and events attracting more than 10,000 people at any one time and maximum number to be permitted on such occasions;
- (d) the adequacy of car parking arrangements within the Park and Palace so as to avoid overflow into adjoining residential streets;
- (e) any proposals which require planning permission;
- (f) the establishment and maintenance of the Park as a Metropolitan Park;
- (g) the furtherance of recreation and leisure in the Alexandra Park and Palace.

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### Section C – Terms of Reference: Full Council & Non Executive Bodies

#### SECTION 5 - AREA COMMITTEES

There is a Protocol outside this Constitution setting out how Area Committees are to operate. This Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

The Borough has 7 Area Committees comprising all Ward Councillors from the Wards represented.

The Chair of each Area Committee shall be a Councillor from among the Ward Councillors serving each Area, excluding the Mayor or any Cabinet Member, and these appointments shall be ratified each year at the Annual Council meeting.

The Access to Information Procedure Rules in Part 4 of this Constitution apply to Area Committees. The Committee Procedure Rules in Part 4 apply to Area Committees except where this would be inconsistent with the Protocol mentioned above.

Area Committees are intended to have formal decision-making and advisory roles. Area Committees shall have the following functions:

- (a) Developing and making an Area Committee Plan at the commencement of each municipal year setting out the priorities for the Area over the coming year;
- (b) Developing and encouraging partnerships with local residents' associations, voluntary and community bodies and other stakeholder groups in the Area to consider matters of mutual interest;
- (c) Proposing variations to standard service delivery and to specifications for procurement within the remit of the Directorate of Place and Sustainability in order to reflect local needs and aspirations subject to these variations being consistent with agreed budgets and legally possible;
- (d) To monitor and make proposals for improvements to the physical environment and street scene of neighbourhoods and to consider the impact at a neighbourhood level of strategic

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policies to develop services;

- (e) Being consulted, and making recommendations to the Cabinet, about potential items for inclusion in the Local Implementation Plan, indicating priorities as between schemes which meet the Borough-wide criteria and making recommendations on the detailed design of such schemes;
- (f) Being consulted, and making recommendations to the Borough Commander, about local police priorities for promoting Community Safety;
- (g) Making recommendations to the full Council on the introduction of by-laws to have effect in the Wards covered by the Area Committee. Wherever possible proposed by-laws should be consistent with the model by-laws on that matter issued by central government;
- (h) Being consulted informally about applications under the Licensing Act 2003 and the Gambling Act 2005. Only Ward Councillors (and local residents and businesses) will be “interested parties” with a right to make relevant representations under these Acts but the Area Committee can make its views known informally to Ward Councillors;
- (i) Being consulted and making representations about (i) applications under other non-executive licensing and regulatory legislation, (ii) planning applications, and (iii) proposed changes to parking controls and traffic calming measures;
- (j) Exercising the powers of the Local Planning Authority to adopt, revise and revoke Local Development Orders under section 61A of the Town and Country Planning Act 1990 and overseeing all procedural steps including local consultation;
- (k) Making arrangements to hold a pre-planning application presentation at a normal Area Committee meeting, on schemes that have formally entered the Council’s Pre-Planning Application Advice Service;
- (l) Monitoring and making recommendations to develop the system of Area Based Working for service delivery;

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### Section C – Terms of Reference: Full Council & Non Executive Bodies

- (m) Undertaking Area Studies about issues of concern to local residents;
- (n) Considering recommendations and concerns raised during the public forum element of the meeting;
- (o) Considering and taking action in any way relating to, or connected with, the above matters and recommending amendments to the Protocol on Area Committees.

Area Committee meetings shall commence with an open public forum, intended to act as a consultative discussion for local people and their Ward Councillors on all issues affecting, or relevant to, the Council and service delivery.

#### Area Committees and Urgency

Where there is a need for urgent decisions, or representations in response to consultation, to be made between scheduled meetings of an Area Committee the Chair shall be responsible for taking those actions. Action taken by the Area Committee Chair shall be reported for noting to the next meeting of the Area Committee.

#### **SECTION 6 - EMERGENCY PROCEDURES IN ELECTION YEAR**

In the year of the ordinary election of Borough Councillors, between the day after the election and the day of the Annual Meeting, the Chief Executive may, so far as is lawful, exercise any of the functions of the Council or its non-executive bodies in cases of urgency in consultation with the Mayor. Decisions made by the Chief Executive in accordance with this paragraph shall be reported to the next meeting of the appropriate body.

#### **SECTION 7 - DEFAULT PROVISIONS**

If at any time no Members are appointed to, or able to act on, any non-executive body of the Council, and a decision has to be taken in a case of urgency, then the decision may be taken by the Chief Executive acting so far as is practicable in consultation with the Mayor, or Deputy Mayor if the Mayor is unable to act.

#### **SECTION 8- GROUP MEETINGS**

## PART THREE – RESPONSIBILITY FOR FUNCTIONS

### Section C – Terms of Reference: Full Council & Non Executive Bodies

In recognition of the role of Group Meetings in the consideration of Council business and of the fact that the supply of advice, reports, information and other material to Group Meetings is generally conducive to the due process of Council business, the following facilities shall be made available for the conduct of Group Meetings and for any Group Committees which may be established for the consideration of Council business:

- (a) suitable accommodation for meetings;
- (b) assistance with the production and distribution of agenda and minutes;
- (c) where the Majority Group makes arrangements for the discussion of items prior to their submission to a committee or sub-committee or Panel, arrangements shall be made through the Leader of the Council or the appropriate Cabinet Member to ensure that official information, advice and reports are available to the Group Meetings;
- (d) where a Minority Group makes similar arrangements for the consideration of Council business, arrangements shall be made through the Leader of the Minority Group, or the appropriate spokesperson, to make available information from published sources and advice on Council procedures but not official advice as to the policies which that Minority Group should pursue. The Majority Group Leader or the appropriate Cabinet Member shall be made aware of information provided to a Minority Group unless it is of routine or trivial nature.

## SECTION 8 - CREATION OF NEW BODIES

### Creation of New Non-Executive Bodies

Proposals for the creation of new bodies exercising non-Executive functions to exist for more than three months shall be submitted to the Corporate Committee with details of the proposed membership, terms of reference and comments by the Head of Local Democracy & Member Services on the staffing implications.

# Part Three, Section D

## Terms of Reference:

### The Cabinet & Cabinet Bodies

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#### SECTION 1 - CABINET FUNCTIONS

##### 1. The Cabinet

###### 1.1 The Cabinet shall have the functions as follows:

- (a) To exercise the powers and duties of the Council, except
  - (i) where the exercise of such powers and duties is reserved to the Council;
  - (ii) to the extent that statutory provisions preclude the Cabinet from discharging any responsibility;
  - (iii) where different constitutional arrangements for particular functions and responsibilities have been made; or
  - (iv) where powers and duties are delegated to a committee or to an officer.
- (b) With the agreement of the Leader, to enter into new, or confirm existing, joint arrangements with the Cabinets of other local authorities.

##### 2. Individual Cabinet Members

2.1 Individual Cabinet Members have powers allocated by the Leader to exercise those functions of the Cabinet which fall within that Cabinet Member's specific portfolio responsibilities.

2.2 On the production of each monthly update to the Forward Plan the Leader shall indicate which decisions -

- (a) may be taken by the Cabinet Meeting, or
- (b) may be taken by a Cabinet Committee, or
- (c) may be taken by the Leader personally, or
- (d) may be taken by an individual Cabinet Member or Members.

If there is any doubt as to which portfolio would cover any proposed decision by a Cabinet Member, the matter shall be referred to the Leader to determine the appropriate portfolio.

## PART THREE - RESPONSIBILITY FOR FUNCTIONS

### SECTION D - TERMS OF REFERENCE: THE CABINET AND CABINET BODIES

- 2.3 At any time before a decision on the Forward Plan has been taken, the Leader may allocate that decision to a different body or person within paragraph 2.2 (a) to (d) above.
- 2.4 The Cabinet meeting, when considering any matter referred to it, and with the Leader's agreement, may delegate any aspect of the matter to an individual Cabinet Member or to an officer for decision but not so as to conflict with any decision already taken by the Cabinet Meeting. At a Cabinet meeting the Leader may reserve any aspect of the matter for his/her own decision at the time or subsequently.
- 2.5 An individual Cabinet Member may refer any decision, within that Member's responsibilities, to a meeting of the Cabinet or to the Leader for determination.
- 2.6 The Leader may take any key decision that has become urgent in accordance with the procedures on urgent decisions in paragraph 1.7 of The Protocol on Decision-Making. The Leader may take such a decision alone but will consult with any other Cabinet Member(s) having relevant portfolio responsibilities so far as is practicable.

### 3. Assistant Cabinet Members

- 3.1 The Council may appoint Assistant Cabinet Members to provide an effective link between the Cabinet and other Councillors and to assist Cabinet Members generally and with specific roles within their portfolio.
- 3.2 The Assistant Cabinet Members:-
- (a) May not take Cabinet decisions
  - (b) May have specific areas of focus within the relevant portfolio area
  - (c) Will be able to substitute in certain circumstances for the Cabinet Members but not if a decision is to be made as part of the Cabinet arrangements
  - (d) Can attend and participate in the absence of the relevant Cabinet Member at meetings of the Cabinet with the permission of the Leader but cannot vote
  - (e) Cannot participate in a Scrutiny Panel or Review that is examining an area of policy within the relevant Cabinet Member portfolio responsibilities
  - (f) May put questions to Cabinet Members at Council Question time but not in respect of the portfolio to which they have responsibility as an Assistant Cabinet Member
  - (g) Assistant Cabinet Members may not take part in Cabinet decision-making in any way.

PART THREE - RESPONSIBILITY FOR FUNCTIONS  
SECTION D - TERMS OF REFERENCE: THE CABINET AND CABINET BODIES

4. Deputy Leader of the Council

- 4.1 The Leader shall appoint a Deputy Leader of the Council from among the Cabinet Members (other than the Leader) and the Deputy Leader may carry out the deputising functions below in addition to having the responsibilities of one of the Cabinet Member portfolios.
- 4.2 The Deputy Leader may at the request of the Leader and in the Leader's absence:
- (a) deputise for the Leader by chairing meetings of the Cabinet and Leadership meetings
  - (b) act as spokesperson on all matters that are the responsibility of the Cabinet
  - (c) represent the Council with regard to Member level contacts or meetings with Central Government and any regional, national or international organisations.
- 4.3 In the event that the Leader is unable to act or the office of Leader is vacant, the Deputy Leader may exercise all the functions of the Leader under this Constitution.

SECTION 2 - COMMITTEES OF THE CABINET

The Cabinet may delegate any of its functions to a Committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Cabinet may establish decision-making Committees, which may only include Cabinet Members. The Cabinet may establish advisory Committees, the membership of which need not be limited to Cabinet Members. The Cabinet may change them, abolish them, or create further ones, at its own discretion.

Committees established by the Cabinet shall be empowered to perform their functions with immediate effect unless the Cabinet imposes any express restriction when they are established. Unless stated otherwise, all Decision-Making Committees will continue in operation until expressly abolished by the Cabinet and all Advisory or Consultative Committees will continue in operation only until the first meeting of the Cabinet in the next municipal year following their establishment when they must be expressly renewed or they cease to exist.

The establishment, abolition or cessation of Committees and the amendment of their terms of reference will be reported to full Council in due course for noting in the Council's Constitution.

PART THREE - RESPONSIBILITY FOR FUNCTIONS  
SECTION D - TERMS OF REFERENCE: THE CABINET AND CABINET BODIES

The functions of the Cabinet under this Section shall be exercised with the agreement of the Leader and may be exercised by the Leader personally.

The following Committees are established:

~~Decision-Making Committees of the Cabinet~~

~~1. Cabinet Procurement Committee (Quorum 2)~~

~~The terms of reference of the Committee are:~~

- ~~a) To exercise the functions of the Cabinet in respect of all contracts for procurement for works, goods or services in accordance with the Contract Procedure Rules set out in Part 4 of this Constitution except for those matters expressly delegated to any other body or person.~~
- ~~b) To undertake particular powers included within (a) as follows:
  - ~~(i) waiver of Contract Procedure Rules where appropriate;~~
  - ~~(ii) acceptance of tenders/award of contracts where appropriate;~~
  - ~~(iii) approving variations, extensions and novations of contracts where appropriate;~~
  - ~~(iv) annual review of Contract Procedure Rules;~~
  - ~~(v) receive quarterly reports of the Director of Adults, Culture and Community Services and the Director of Children and Young People's Services in relation to 'spot contracts';~~
  - ~~(vi) agreeing approved lists of contractors.~~~~
- ~~c) To oversee the process and receive reports at key milestones in respect of procurement of strategic service areas;~~
- ~~d) To advise the Cabinet on all matters concerned with procurement generally.~~

~~2. Cabinet Voluntary Sector Committee (Quorum 2)~~

~~The terms of reference of the Committee are:~~

- ~~a) To consider officer recommendations for future funding and agree the awarding of grant aid to the voluntary and community sector;~~
- ~~b) To review funding to organisations where there is a potential breach of conditions of grant aid and/or service level agreement;~~
- ~~c) To advise the Cabinet on variations to the overall grant aid policy;~~

PART THREE - RESPONSIBILITY FOR FUNCTIONS  
SECTION D - TERMS OF REFERENCE: THE CABINET AND CABINET BODIES

- d) ~~To advise the Cabinet on all aspects of the Council's relationship with the Voluntary Sector including the management and use of the community buildings portfolio.~~

**SECTION 3 - LEADER'S CONFERENCES**

1. The Leader of the Council may at any time convene special conferences on particular issues. The terms of reference and membership of such conferences or meetings shall be specified by the Leader when convening such meetings.
2. The Leader shall hold meetings with Cabinet Members, Chairs and other Members as she/he may consider appropriate to recommend:
  - (a) action to achieve declared policies and guidelines;
  - (b) the settlement of conflicts between Services;
  - (c) advice and guidance to be given to the Council, its committees, sub-committees or panels upon any matter within the purview of the Council, which will assist those bodies to discharge the Council's functions in accordance with their Terms of Reference.
3. The Leader's Conference meeting shall be provided with such advice, guidance and information appertaining to the Council's functions as may be necessary to enable it to give full and proper consideration to matters coming within its Terms of Reference.

**SECTION 4 - CREATION OF NEW BODIES**

**Creation of New Cabinet Bodies**

Proposals for the creation of new bodies exercising Cabinet functions to exist for more than three months shall be submitted to the Cabinet and the Leader with details of the proposed membership, terms of reference and comments by the Head of Local Democracy & Members Services on the staffing implications.

**Part Four, Section E**  
**Budget & Policy Framework Procedure Rules**

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**BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

**1. The framework for Cabinet decisions**

- 1.1 The Council will be responsible for the adoption of the budget and policy framework as set out in Article 4 of this constitution. Once the framework is in place, it will be the responsibility of the Cabinet to implement it.

**2. Process for developing the framework**

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

- 2.1 Each year the Chief Officer and relevant Cabinet Members will in their joint report to the Overview and Scrutiny Committee on potential issues for Committees work programmes include any matters which form part of the Budget and Policy Framework, which will require adoption in the coming year.
- 2.2 If the Overview and Scrutiny Committee or ~~an Overview and a~~ Scrutiny Review Panel 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 Overview and Scrutiny Committee or Scrutiny Review Panel 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 Overview and Scrutiny Committee consultees and the Cabinet's response.
- 2.3 Once the Cabinet or relevant Cabinet Member has approved the firm proposals, the Cabinet will recommend the proposals to Full Council for approval or decision at the earliest opportunity.
- 2.4 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.
- 2.5 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

## PART FOUR – RULES OF PROCEDURE

### Section E – Budget and Policy Framework Procedure Rules

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. The decision will be publicised.

- 2.6 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 he/she objects to the decision becoming effective and provides reasons why. If the Leader informs the proper officer that he/she has no objection it shall become effective upon receipt of such notice.
- 2.7 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:
- (i) approve the Cabinet's/Cabinet Member's recommendation by a simple majority of votes cast at the meeting; or
  - (ii) approve a different decision which does not accord with the recommendation of the Cabinet/Cabinet Member's by a simple majority.
- 2.8 The decision shall then be made public and shall be implemented immediately;
- 2.9 The decision of the Council is final. The Leader may not ask for this or any decision to the same effect to be reconsidered for a further 6 months

### **3. Decisions outside the budget or policy framework**

- 3.1 Subject to the provisions of paragraph 5 (urgent decisions outside the budget or policy framework), the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet 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 the Council, then that decision may only be taken by the Council, subject to 3.2 and 3.3 below.
- 3.2 If the Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the monitoring officer and the Chief Financial Officer as to whether the decision they want to make would be contrary to or not wholly in

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accordance with the budget. If the advice of either of these 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 shall apply.

#### 3.3 Council may either:

- (a) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (b) amend the budget framework or policy concerned to encompass the decision or proposal of the decision taker responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (c) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to, or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the decision taker to reconsider the matter in accordance with the advice of either the Monitoring Officer/ Chief Financial Officer and refer it back to the Cabinet. The decision taker must reconsider within 7 working days of the Council meeting. Whatever decision the Cabinet takes at that meeting is final, bearing in mind that a decision taken outside the policy or budget framework will be unlawful.

## 4. Urgent Decisions

4.1 Where the Director or other Senior Manager is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the Cabinet decision-making process set out above or to comply with the Access to Information Procedure Rules, the decision may be deemed “urgent”:

- (a) In order for a decision to be deemed urgent, the “General Exception” or “Special Urgency” procedures set in the Access to Information Procedure Rules must be followed.
- (b) the Director shall use their best endeavours, as far as the urgency of the matter permits, to consult those persons whom

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he/she would have been required to consult had the full Cabinet decision-making process been followed; and

- c) the decision-making body shall have the power to take that relevant decision, notwithstanding that the full procedure has not been followed;
- d) These urgency procedures should only be used in cases of genuine urgency and should not be abused, for example, in attempting to put right failures in forward planning.

#### **5. Urgent decisions outside the budget or policy framework**

- 5.1 The Cabinet, committees of the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet 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. 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 interest and it is not practical to convene a quorate meeting of the full Council within the Access to Information Procedure Rules.
- 5.2 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.
- 5.3 In order for a decision to be deemed urgent, the Chair of the Overview and Scrutiny Committee must agree that the decision is both reasonable in all circumstances and that it should be treated as a matter of urgency. In the absence or unavailability of the Chair the consent of the Deputy-Chair of the Overview and Scrutiny Committee is required. In the absence of both, the consent of the Mayor shall be required.
- 5.4 The reasons why it is not practical to convene a quorate meeting of full Council and the consent to the decision being taken as a matter of urgency must be noted on the record of the decision.
- 5.5 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 5.6 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.

#### **6. Calculation of Budget Requirement**

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- 6.1 Subject to paragraph 6.5 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 (the calculation of budget requirements);
  - b) estimates of the amounts to be used for purposes of such a calculation; or
  - c) estimates of such a calculation.
- 6.2 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6.1, it must inform the Leader of any objections that 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 authority's requirements.
- 6.3 Where the Council gives instructions in accordance with paragraph 6.2, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader 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.
- 6.4 When the period specified by the Council, referred to in paragraph 6.3 has expired, the Council must, when making calculations (whether originally or by way of substitute), in accordance with the sections referred to in paragraph 6.1a), 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 objectives; and

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

6.5 Paragraphs 6.1 to 6.4 (inclusive) shall not apply in relation to calculations or substitute calculations that an authority is required to make in accordance with section 52I or 52T of the Local Government Finance Act 1992.

#### **7. Virement**

7.1 “Virement” is the ability to meet increased expenditure or reduced income under one expenditure vote from savings in another expenditure vote or from increased income. The Council’s rules on virement are set out in the Financial Regulations set out in the Constitution.

#### **8. In-year changes to policy framework**

8.1 Subject to the provisions of section 5 (urgent decisions outside the budget and policy framework) the responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by the Cabinet, individual members of the Cabinet and any officers, or joint arrangements discharging Cabinet functions except where the Council has agreed this at the time of agreeing the budget or relevant policy or strategy.

# Part Four, Section G

## Overview and Scrutiny Procedure Rules

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### OVERVIEW AND SCRUTINY PROCEDURE RULES

1. The arrangements for Overview and Scrutiny
  - 1.1 The Council will have one Overview and Scrutiny Committee, which will have responsibility for all overview and scrutiny functions on behalf of the Council.
  - 1.2 The terms of reference of the Overview and Scrutiny Committee will be:
    - (i) The performance of all overview and scrutiny functions on behalf of the Council.
    - (ii) The ~~commission and~~ appointment of ~~such~~ Scrutiny Review Panels ~~as it considers appropriate~~, with membership that reflects the political balance of the Council.
    - (iii) To ~~decide and amend~~ *determine* the terms of reference of all Scrutiny Review Panels.
    - (iv) To receive reports from local National Health Service bodies on the state of health services and public health in the borough area.
    - (v) To monitor the effectiveness of the Council's Forward Plan.
    - (vi) To receive all appropriate performance management and budget monitoring information.
    - (vii) To approve a programme of future overview and scrutiny work so as to ensure that the Overview and Scrutiny Committee's and Scrutiny Review Panels' time is effectively and efficiently utilised;
    - (viii) To consider all requests for call-in and decide whether to call-in a decision, how it should be considered and whether to refer the decision to the Cabinet or to Council.

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- (ix) To monitor the effectiveness of the Call-in procedure.
- (x) To review and scrutinise action taken by partner authorities in discharge of crime and disorder functions and to make reports and recommendations to Cabinet and Council on these.
- (xi) To make arrangements which enable any Councillor who is not a Committee Member to refer any local government matter, or any crime and disorder matter, to the Committee under the Councillor Call for Action Procedure.
- (xii) To ensure that referrals from Overview and Scrutiny Committee to the Cabinet either by way of report or call-in are managed efficiently, and
- (xiii) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to the Overview and Scrutiny Committee or relevant Scrutiny Review Panels.

1.3 The Overview and Scrutiny Committee may ~~commission~~ establish a number of

Scrutiny Review Panels:

- (i) ~~Scrutiny Reviews Panels are task orientated, time-limited advisory bodies appointed to examine designated Council services. Scrutiny Review Panels will refer their findings/ recommendations in the form of a written report, with the approval of the Overview and Scrutiny Committee, to the Cabinet and/or the Council as appropriate. a specific issue in depth and reporting to the Overview and Scrutiny Committee.~~
- (ii) Scrutiny Review Panels will analyse submissions, request and analyse any additional information, and question the Cabinet Member(s), relevant Council officers, local stakeholders, and where relevant officers and/or board members of local NHS bodies or NHS funded bodies.
- (iii) Subject to the approval of the Overview and Scrutiny Committee, Scrutiny Review Panels will be able to appoint external advisors and/or to commission specific pieces of research if this is deemed necessary.
- (iv) Scrutiny Review Panels should make every effort to work by consensus; however, in exceptional circumstances Members may submit minority reports.

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- ~~(v) The culmination of a Scrutiny Review Panel's work is the submitting of a report to the Overview and Scrutiny Committee, including key findings, conclusions and recommendations. Exceptionally, where progress has become protracted or stimulating debate would be helpful, an interim report may be submitted, with the consent of the Chair of the Overview and Scrutiny Committee.~~
- ~~(vi) (v) Prior to publication, draft reports will be sent to the relevant Chief Officers or *where relevant* officers of the National Health Service for checking for inaccuracies and the presence of exempt and/or confidential information; Scrutiny Review Panel members will revisit any conclusions drawn from disputed information;~~
- ~~(vii) (vi) Following endorsement *approval* by the Overview and Scrutiny Committee, final reports and recommendations will be presented to the next available Cabinet meeting *together with an officer report where appropriate. The Cabinet will consider the reports and formally agree their decisions.* The Cabinet will note the report and request a responding report from the Chief Executive or Chief Officer and Cabinet Member responsible. The response is to be available within 6 weeks of the request and will include a detailed tabulated implementation action plan.~~
- ~~(viii) (vii) Following endorsement *approval* by the Overview and Scrutiny Committee, reports on NHS, non-executive or regulatory matters will be copied to the Cabinet for information.~~
- ~~(viii) On receiving the responding report, the Cabinet will consider both reports and formally agree their decisions, and the implementation action plan at the next available Cabinet meeting.~~
- ~~(x) (viii) In the event that the Cabinet does not accept one or more of the recommendations in the final report from the Overview and Scrutiny Committee, the Chair of the Overview and Scrutiny Committee has the right to require that the matter in dispute shall be reported to the next available meeting of full Council for determination. *At the Cabinet meeting to receive the final report and recommendations, the Chair of the Overview and Scrutiny Committee or the Chair of the Scrutiny Review Panel may attend and speak.*~~

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~~(xi) Implementation action plans will also be presented to the Overview and Scrutiny Committee who will be invited to monitor its implementation.~~

~~(xii) (ix) After an appropriate period, post implementation, Overview and Scrutiny Committee will carry out a follow up review to determine if the recommendations had the intended outcomes and to measure any improvements.~~

1.4 When Scrutiny Review Panels report on non-executive or regulatory functions the above rules apply, except the references to The Cabinet shall be taken as reference to the relevant non-executive body. are adapted as follows:

~~(i) Paragraphs 1.3 (i) to (vi) apply.~~

~~(ii) Paragraph 1.3 (vii) applies as if references to the "Cabinet/Cabinet meeting" were replaced by references to "meeting of the non executive body responsible" and its "Chair" as appropriate.~~

~~(iii) Paragraph 1.3 (viii) applies as appropriate.~~

~~(iv) Paragraph 1.3 (ix) will be replaced by this provision – "On receiving the responding report, the non executive body responsible, at its next available meeting, will consider both reports, its proposed response and the implementation action plan and will make recommendations on these to full Council. At the next available meeting full Council will formally agree the response and the implementation action plan."~~

~~(v) Paragraph 1.3 (x) does not apply.~~

~~(vi) Paragraphs 1.3 (xi) and (xii) apply.~~

1.5 The Overview and Scrutiny Committee shall undertake scrutiny of the Council's budget through a Budget Scrutiny process Review Panel. The procedure by which this Panel ~~should~~ operates is detailed in the Protocol covering the Overview and Scrutiny Committee.

1.6 All Overview and Scrutiny meetings shall take place in public (except where exempt or confidential matters are considered).

1.7 The Overview and Scrutiny function should not be seen as an alternative to established disciplinary, audit or complaints mechanisms and should not interfere with or pre-empt their work.

2. **Membership of the Overview and Scrutiny Committee and Scrutiny Review Panels ~~and Budget Scrutiny Review Panel~~**

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2.1 All Councillors (except members of the Cabinet) may be members of the Overview and Scrutiny Committee and the Scrutiny Review Panels ~~and the Budget Scrutiny Review Panel~~. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

2.2 The membership of the Overview and Scrutiny Committee and Scrutiny Review Panels shall, as far as is practicable, ~~comprise Members who are Chairs of Area Committees and, if necessary, other Members in order to comply with the political balance rules. Councillors' membership of the Scrutiny Review Panels and Budget Scrutiny Review Panel will also be, as far as practicable, be~~ in proportion to the representation of different political groups on the Council.

### 3. Co-optees

3.1 Each Scrutiny Review Panel ~~and review~~ shall be entitled to appoint up to three people as non-voting co-optees ~~in consultation with the Overview and Scrutiny Committee.~~

3.2 Statutory voting non-Councillor members of Overview and Scrutiny Committee will be paid an allowance in accordance with the Members' Allowances Scheme in Part 6 of this Constitution.

### 4. Education representatives

4.1 The Overview and Scrutiny Committee and ~~each~~ the Scrutiny Review Panel ~~whose~~ ~~where the review's~~ terms of reference relate ~~wholly or in part~~ to any education functions that are the responsibility of the Cabinet, shall include in its membership the following representatives:

(i) At least one Church of England diocesan representative (voting).

(ii) At least one Roman Catholic diocesan representative (voting).

(iii) 3 parent governor representatives (voting).

These voting representatives will be entitled to vote where the Overview and Scrutiny Committee or a the Scrutiny Review Panel is considering matters that relate to relevant education functions. If the Overview and Scrutiny Committee or Scrutiny Review Panel is dealing with other matters, these representatives shall not vote on those matters though they may stay in the meeting and speak at the

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discretion of the Chair. The Overview and Scrutiny Committee *and Scrutiny Review Panel* will attempt to organise its meetings so that relevant education matters are grouped together.

#### 5. Meetings of the Overview and Scrutiny Committee *and* Scrutiny Review Panels ~~and Budget Scrutiny Review Panel~~

5.1 In addition to ordinary meetings of the Overview and Scrutiny Committee, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called ~~in consultation with the Chief Executive~~ by the Chair of the Overview and Scrutiny Committee *after consultation with the Chief Executive*, by any two members of the Committee or by the proper officer if he/she considers it necessary or appropriate.

5.2 ~~Meetings of Scrutiny Review Panels may be called by the Chair of the Scrutiny Review Panel, by any two members of the Panel or by the proper officer if he/she considers it necessary or appropriate.~~ *In addition to ordinary meetings of the Scrutiny Review Panels, extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Review Panel meeting may be called by the Chair of the Panel after consultation with the Chief Executive, by any two members of the Committee or by the proper officer if he/she considers it necessary or appropriate.*

~~5.3 Meetings of the Budget Scrutiny Review Panel shall take place as outlined in the protocol covering the Overview and Scrutiny Committee.~~

~~5.4 The ordinary meeting place for the Overview and Scrutiny Committee, the Scrutiny Review Panels and the Budget Scrutiny Review Panel shall be Haringey Civic Centre, High Road, Wood Green, London, N22 8LE but they may arrange to meet elsewhere whenever they see fit.~~

#### 6. Quorum

The quorum for the Overview Scrutiny Committee *and* for each Scrutiny Review Panel ~~and for the Budget Review Scrutiny Panel~~ shall be at least one quarter of its membership and not less than 2 voting members.

#### 7. Chair of the Overview and Scrutiny Committee *and* Scrutiny Review Panels ~~and Budget Scrutiny Review Panel~~

7.1 The Chair of the Overview and Scrutiny Committee will be appointed by the Council.

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- 7.2 The Chair of the Overview and Scrutiny Committee shall resign with immediate effect if a vote of no confidence is passed by the Overview and Scrutiny Committee.
- 7.3 Chairs of Scrutiny Review Panels will be drawn from among the Councillors sitting on the Overview and Scrutiny Committee. Subject to this requirement, the Overview and Scrutiny Committee may appoint any person as it considers appropriate as Chair having regard to the objective of cross-party chairing in proportion to the political balance of the Council. The Scrutiny Review Panels shall not be able to change the appointed Chair unless there is a vote of no confidence as outlined in Article 6.5 in this Constitution.
- 7.4 The Chair of the Budget Scrutiny Review ~~Panel~~ process will be drawn from among the opposition party Councillors sitting on the Overview and Scrutiny Committee. The ~~Budget Scrutiny Review Panel~~ Overview and Scrutiny Committee shall not be able to change the appointed Chair unless there is a vote of no confidence as outlined in Article 6.5 in this Constitution.
8. **Work programme**
- Overview and Scrutiny Committee will determine the future scrutiny work programme and will ~~commission task and finish~~ establish Scrutiny Review Panels to assist it to perform its functions. The Committee will appoint a Chair for each Scrutiny Review Panel.
9. **Agenda items for the Overview and Scrutiny Committee**
- 9.1 Any member of the Overview and Scrutiny Committee shall be entitled to give notice to the proper officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.
- 9.2 The Overview and Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, from the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet within an agreed timescale.
10. **Policy review and development**
- 10.1 The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules in Part 4 of this constitution.

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~~10.1~~ 10.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee and its Scrutiny Review Panels may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference. The Scrutiny Review Panels must do so via the Overview and Scrutiny Committee.

#### **11. Reports from the Overview and Scrutiny Committee**

Following endorsement by the Overview and Scrutiny Committee, final reports and recommendations will be presented to the next available Cabinet meeting. The procedure to be followed is set out in paragraphs 1.3 or 1.4 above.

#### **12. Making sure that overview and scrutiny reports are considered by the Cabinet**

12.1 The agenda for Cabinet meetings (including any meetings of single members) shall include an item entitled 'Issues arising from Scrutiny'. Reports of the Overview and Scrutiny Committee referred to the Cabinet shall be included at this point in the agenda unless either they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda or the Cabinet gives reasons why they cannot be included and states when they will be considered.

12.2 Where the Overview and Scrutiny Committee prepares a report for consideration by the Cabinet in relation to a matter where decision making power has been delegated to an individual Cabinet member, a Committee of the Cabinet or an Officer, or under Joint Arrangements, then the Overview and Scrutiny Committee will also submit a copy of their report to that individual for consideration, and a copy to the proper officer. If the member, committee, or officer with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee, then the body/he/she must then refer the matter to the next appropriate meeting of the Cabinet for debate before making a decision.

#### **13. Rights and powers of Overview and Scrutiny Committee members**

##### **13.1 Rights to documents**

(i) In addition to their rights as Councillors, members of the Overview and Scrutiny Committee and Scrutiny Review Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

(ii) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committee and Scrutiny

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Review Panels as appropriate depending on the particular matter under consideration.

#### 13.2 Powers to conduct enquiries

The Overview and Scrutiny Committee and Scrutiny Review Panels may hold enquiries into past performance and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in these processes. 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, within available resources. 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. ~~(and Scrutiny Review Panels require the support of the Overview and Scrutiny Committee to do so).~~

#### 13.3 Power to require Members and officers to give account

(i) The Overview and Scrutiny Committee and Scrutiny Review Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions (Scrutiny Review Panels will keep to issues that fall within their terms of reference). As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Cabinet, the Head of Paid Service and/or any senior officer (at second or third tier), and chief officers of the local National Health Service to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy (or NHS policy, where appropriate); and
- (c) their performance.

It is the duty of those persons to attend if so required. At the discretion of their chief officer, council officers below third tier may attend, usually accompanied by a senior manager. At the discretion of the relevant Chief Executive, other NHS officers may also attend overview and scrutiny meetings.

(ii) Where any member or officer is required to attend the Overview and Scrutiny Committee or Scrutiny Review Panel under this provision, the Chair of that body will inform the member or 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 he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are

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required to be produced for the Overview and Scrutiny Committee or Scrutiny Review Panel. Where the account to be given to Overview and Scrutiny Committee or Scrutiny Review Panel 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.

- (iii) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee or Scrutiny Review Panel shall in consultation with the member or officer arrange an alternative date for attendance, to take place within a maximum of 10 days from the date of the original request.

#### 14. Attendance by others

The Overview and Scrutiny Committee or Scrutiny Review Panel may invite people other than those people referred to in paragraph 13 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 may invite such people to attend. Attendance is optional.

#### 15. Call-in

The call in procedure is dealt with separately in this Part of the Constitution, immediately following the Overview and Scrutiny Procedure Rules.

#### 16. Councillor Call for Action (CCfA)

The Council has adopted a Protocol for handling requests by non-Committee Members that the Committee should consider any local government matter which is a matter of significant community concern. This procedure should only be a last resort once the other usual methods for resolving local concerns have failed. Certain matters such as individual complaints and planning or licensing decisions are excluded.

Requests for a CCfA referral should be made to the Head of Local Democracy & Member Services who will check with the Monitoring Officer that the request falls within the Protocol. The Councillor making the referral will be able to attend the relevant meeting of the Committee to explain the matter. Among other actions, the Committee may: (i) make recommendations to the Cabinet, Directors or partner agencies, (ii) ask officers for a further report, (iii) ask for further evidence from the Councillor making the referral, or (iv) decide to take no further action on the referral.

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The Protocol is not included within this Constitution but will be subject to regular review by the Committee.

#### 17. Procedure at Overview and Scrutiny Committee meetings and meetings of the Scrutiny Review Panels.

(a) The Overview and Scrutiny Committee shall consider the following business as appropriate:

(i) apologies for absence;

(ii) urgent business;

(iii) declarations of interest;

(iv) minutes of the last meeting;

(v) deputations and petitions;

(vi) consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

(vii) responses of the Cabinet to reports of the Committee; ~~and~~

(viii) business arising from Area Committees;

~~(viii)~~ (ix) the business otherwise set out on the agenda for the meeting.

(b) A Scrutiny Review Panel shall consider the following business as appropriate:

(i) minutes of the last meeting;

(ii) declarations of interest;

(iii) the business otherwise set out on the agenda for the meeting.

(c) Where the Overview and Scrutiny Committee or Scrutiny Review Panel has asked people to attend to give evidence at meetings, these are to be conducted in accordance with the following principles:

(i) that the investigation be conducted fairly and all members of the Overview and Scrutiny Committee and Scrutiny Review Panels be given the opportunity to ask questions of attendees, to contribute and to speak;

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(ii) that those assisting the Overview and Scrutiny Committee or Scrutiny Review Panel by giving evidence be treated with respect and courtesy;

(iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis; and

(iv) that reasonable effort be made to provide appropriate assistance with translation or alternative methods of communication to assist those giving evidence.

(d) Following any investigation or review, the Overview and Scrutiny Committee or Scrutiny Review Panel shall prepare a report, for submission to the Cabinet (~~via the Overview and Scrutiny Committee in the case of a Scrutiny Review Panel~~) and shall make its report and findings public.

#### 18. The Party Whip

Scrutiny is intended to operate outside the party whip system. However, when considering any matter in respect of which a member of scrutiny is subject to a party whip the member must declare the existence of the whip and the nature of it before the commencement of the Committee/Panel's deliberations on the matter. The Declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

The expression "party whip" can be taken to mean: "Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."

#### 19. Matters within the remit of more than one Scrutiny Review Panel

Should there be any overlap between the business of any Scrutiny Reviews Panels, the Overview and Scrutiny Committee is empowered to resolve the issue.

PART FOUR – RULES OF PROCEDURE Section J– Contract Procedure Rules

**Part Four, Section J  
Contract Procedure Rules**

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## **0. Statement of Principles**

- 0.1 The Contract Standing Orders provide the framework rules for the Council's procurement of works, goods and services. Following them will ensure value for money, propriety and the proper spending of public money.
- 0.2 The Procurement Code of Practice provides more detail and shall govern Council tendering and contract procedures. The Director of Corporate Resources and Head of Procurement shall maintain and issue the Procurement Code of Practice. Any procurement activity shall proceed in accordance with the Contract Standing Orders and the Procurement Code of Practice and all such other guidance issued by the Head of Procurement.
- 0.3 The Head of Procurement shall make the latest version of the Contract Standing Orders and the Procurement Code of Practice available to every Director, Member and officer of the Council. Directors, or officers acting on their behalf, shall apply the requirements of the Contract Standing Orders and the Procurement Code of Practice when engaging in any procurement activity.
- 0.4 The purpose of procurement activity shall be to achieve best value in accordance with the Council's statutory or approved objectives. This should include an innovative approach to building partnerships with the private and not-for-profit sectors and collaborating with other public sector bodies within a robust contractual framework. Officers with responsibility for procurement shall ensure that they are able to demonstrate achievement of best value with regards the optimal combination of economy, efficiency and effectiveness.
- 0.5 Every contract or official order for works, goods or services made by the Council shall be for the purpose of achieving the Council's statutory or approved objectives and shall conform to all relevant English and European Union law.
- 0.6. Directors shall ensure that the Cabinet, ~~Cabinet Procurement Committee~~ or appropriate Member of the Cabinet ~~or Cabinet Procurement Committee~~ is consulted on any procurement activity prior to its publication in the Council's Forward Plan.
- 0.7. Directors must ensure that audit trails are in place for all procurement activity in accordance with the Procurement Code of Practice.
- 0.8. No Member shall enter into any contract on the Council's behalf.
- 0.9. No Member shall be permitted to become security under any agreement between the Council and a contractor employed by it.

# CONTRACT STANDING ORDERS

## 1. Introduction

- 1.01. Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is required to ensure that best value works, goods and services are provided. Efficient use of resources in order to achieve best value is therefore an imperative. The Council's reputation is equally important and should be safeguarded from any imputation of dishonesty or corruption.
- 1.02. For these reasons it is a disciplinary offence to fail to comply with Contract Standing Orders and the Procurement Code of Practice when letting contracts. Employees have a duty to report breaches of Contract Standing Orders to an appropriate senior manager and the Head of Audit & Risk.
- 1.03. Reference should be made to the Procurement Code of Practice for more detailed procurement procedures.

## 2. Definitions and Interpretation

- 2.01. These Contract Standing Orders are made pursuant to section 135 of the Local Government Act 1972 and shall come into force with this Constitution.
- 2.02. Unless the context otherwise requires, in these Contract Standing Orders the terms below shall have the meanings ascribed to them.
  - a) "**Director**" means an employee of the Council (inc Alexandra Palace and Park Charitable Trust) holding a post designated as Director, Chief Executive or Assistant Chief Executive.
  - b) "**EU**" means European Union.
  - c) "Public Contract Regulations" means the Public Contract Regulations 2006 SI 2006 No. 5 as amended from time to time.
- 2.03. In the event of any conflict between EU law, English law and Council policy, the requirements of EU law shall prevail over English law and the requirements of English law shall prevail over Council policy.
- 2.04. In the event of any doubt as to the interpretation of these Contract Standing Orders or the Procurement Code of Practice, or as to the proper procedure to be followed, clarification should be sought from the Head of Procurement.

### 3. Roles & Responsibilities

#### 3.01 The Cabinet Procurement Committee will:

- a) hold Directors accountable for any decisions they make under their delegated authority or under these Contract Standing Orders.
  
- b) approve award of contract including any options to extend that are set out within the original contract and valued over £250,000 (two hundred and fifty thousand).
  
- c) approve any variations or extensions valued over £250,000 (two hundred and fifty thousand) that are not covered in the original decision taken in b) above.
  
- d) ensure that the award of any contract and any extension (not included in the original decision) or variation valued over £500,000 (five hundred thousand) is a 'key decision' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.

#### 3.02 ~~Constitution Review Working Group~~

~~The Constitution Review Working Group will keep under review these Contract Standing Orders and recommend amendments to full Council for adoption.~~

#### 3.03 **Directors**

The Director has responsibility for all contracts let under his/her control. He/she is accountable to the Cabinet for the performance of their duties in relation to contract letting and management, which are:

- a) to ensure compliance with English and EU law and Council Policy;
- b) to ensure value for money in all procurement matters;
- c) to ensure compliance with Contract Standing Orders and the Procurement Code of Practice;
- d) to maintain a departmental scheme of delegation;
- e) to ensure that all relevant officers are familiar with the provisions of Contract Standing Orders and the Procurement Code of Practice and that they receive adequate training on their operation;
- f) to ensure compliance with any guidelines issued in respect of these Contract Standing Orders;
- g) to take immediate action in the event of a breach of Contract Standing Orders or the Procurement Code of Practice within his or her area;
- h) to keep proper records of all bids and contracts etc. including minutes of tender evaluation panels and other meetings;
- i) to keep records of waivers of any provision of these Contract Standing Orders;
- j) to make appropriate arrangements for the opening of bids and their secure retention so as to protect the integrity of the procurement process;

- k) to ensure that the Council's seal is affixed to any document required to be executed as a deed and that where a document is not expressed to be under seal, it is signed by two people as provided for in these Contract Standing Orders;
- l) to ensure original sealed contract documents are held by the Head of Legal Services for safekeeping;
- m) to record all contracts in the Contracts Register;
- n) to ensure effective management of all contracts under his/her control and to a level deemed appropriate in regard to risk or value of each contract.
- o) no contract shall be let unless the expenditure involved has been fully considered and approved beforehand and sufficient money has been allocated in the relevant budget.

3.04 ~~Pensions Committee~~ **Corporate Committee**

The ~~Pensions Committee~~ Corporate Committee shall have the same powers and duties of the Cabinet ~~Procurement Committee~~ specified in these Contract Standing Orders but limited to procurement decisions and award of contract relating to the Pension Fund.

#### 4. Scope of Contract Standing Orders

- 4.01. These Contract Standing Orders shall apply to all contracts for the procurement by the Council of works, goods and services unless otherwise expressly stated or these requirements are waived in accordance with CSO10.
- 4.02. Where the Council secures funding from an external funding body, and the funding is conditional upon the grant monies being used to facilitate service delivery, Contract Standing Orders shall apply to procurement by the Council of the works, goods, and services to facilitate the service delivery.
- 4.03. These Contract Standing Orders shall **not apply** to contracts of employment, or to contracts relating to any interest in land. For the avoidance of doubt, there are excluded from these Contract Standing Orders any agreement relating to the provision of nomination rights to housing, collateral management arrangements in respect of social housing and the acquisition of rights or benefits pursuant to the Council's Private Sector Temporary Accommodation Leasing Scheme.

#### 5. EU Public Procurement Directives

- 5.01 Where the value of a works, goods or services contract is equal to, or exceeds, the applicable threshold in relation to the Public Contracts Regulations, the provisions of those Regulations shall govern the tendering process and shall take precedence over the provisions of these Contract Standing Orders in the event of any conflict.

- 5.02. In respect of contracts to which Public Contract Regulations apply:
- a) where the tender is for appointment to a Framework Agreement, the total period of the Framework Agreement including any possible extension, shall not exceed four years except in exceptional circumstances relating to the subject of the Framework Agreement;
  - b) all bidders must be notified in writing of a tender selection decision by the Council at least 10 (ten) calendar days prior to the proposed contract award date, provided notification is by facsimile or electronic means. Where the last day of this ten-day notice period falls on a non-working day, the period must be extended to include the next working day. Where notification is not by facsimile or electronic means, the notice period shall be in accordance with the timeframes required by the Public Contract Regulations.
- 5.03. Where the subject matter of a contract is not exempt under the Public Contract Regulations and when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, it may be awarded only to a particular contractor, a negotiated procedure without prior publication of a contract notice may be used for such award

## **6. Contract Value and Aggregation**

- 6.01. Directors must ensure that a pre-tender estimate of the contract value is prepared and recorded in writing and in order to determine whether the thresholds under the Public Contract Regulations apply.
- 6.02. Unless otherwise specifically provided, reference to contract value or an estimated contract value in these Contract Standing Orders means the aggregate value payable in pounds sterling exclusive of Value Added Tax over the entire contract period, including any extension periods as anticipated in the proposed contract.
- 6.03. Contracts must not be artificially under or over estimated or divided into two or more separate contracts where the effect is to avoid the application of Contract Standing Orders or the Public Contract Regulations.

## **7. Framework and Consortia Arrangements**

- 7.01. Subject to the provision of CSO 7.02, these Contract Standing Orders shall **not apply** where the Council procures particular works, goods and services:
- a) as part of a group of public sector bodies contracting with one or more contractors (consortium arrangement), provided the contract standing orders of one of the public sector bodies constituting the group and/ or where applicable the Public Contract Regulations have been followed, or
  - b) by selecting one or more contractors from a Framework or similar arrangement (including approved lists), established by a public sector body

in accordance with the contract standing orders of that public sector body and/ or where applicable the Public Contract Regulations.

- 7.02. The Council's decision to enter into a contract with the recommended contractor must be made in accordance with CSO 9.07.
- 7.03. The Council shall observe these Contract Standing Orders where it procures works, goods and services for the benefit, or on behalf of, other public bodies.

## **8. Procedure for Contracts valued below £100,000**

- 8.01. Where a contract has an estimated value of less than £5,000 (five thousand), the relevant Director should act in the manner most expedient to the efficient management of the service, having kept a record for so doing.
- 8.02. Where a contract has an estimated value of more than £5,000 (five thousand), but less than £100,000 (one hundred thousand), at least three competitive quotations should be obtained from chosen contractors without the need for an advertisement or the tender procedure followed.
- 8.03. The quotation procedure shall replicate CSO 9.02-9.04 and be managed by the:
  - a) relevant Director where the estimated value of the contract is more than £5,000 (five thousand) but less than £50,000 (fifty thousand).
  - b) Head of Procurement where the estimated value of the contract is more than £50,000 (fifty thousand) but less than £100,000 (one hundred thousand).
- 8.04. Where a pre-qualified Framework arrangement (including approved lists) exists in respect of the subject matter and prices have yet to be determined then CSO 9.01e applies.
- 8.05. The Head of Procurement may decide that processes in CSO 8 are not appropriate in order to secure value for money for the Council and to ensure general EU procurement law principles are complied with. If that is the case, he/she may determine another process of selecting a contractor which will meet best value criteria. The decision and process must be properly documented.

## **9. Procedure for Contracts valued above £100,000**

- 9.01. Except as otherwise provided, contracts with an estimated value of £100,000 (one hundred thousand) or more must be let following publication of an appropriate (tender) advertisement.

Where tenders are to be invited the procedure to be followed shall be determined prior to advertising and shall be one of the following:

- a) open tender (all interested contractors submit a tender in response to an advertisement);
- b) restricted procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to submit a tender);
- c) negotiated procedure (expressions of interest from interested contractors in response to an advertisement, with a selection of those contractors being invited to negotiate);
- d) competitive dialogue (expressions of interest from interested contractors in response to an advertisement, followed by dialogue with a selection of those contractors to identify a solution (or solutions) which meets the Council's requirements, and an invitation to the selected contractors to submit tenders based on the solution/s resulting from the dialogue);
- e) Where it is proposed to award a specific contract based on a framework agreement in which all the terms of the proposed contract are not laid down, a mini- competition shall be held in which tenders shall be invited from all members of the framework agreement which are capable of carrying out the requirements of the specific contract.
- f) single tender where the relevant goods are a proprietary product and/or the relevant services relate to such a product and for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular contractor. The Director of Corporate Resources must first be consulted before this procedure is used. Where applicable, use of this procedure must be compliant with the Public Contract Regulations. Where this procedure is used, an advertisement is not required.

### **9.02 Receipt and Opening of Bids**

- 9.02.1. Other than when electronic procedures are followed (CSO9.03) contractors must be informed that their bids will only be considered if they are:
- a) sent in a plain envelope or parcel with a label on which is printed either with the word "Tender" or "Quotation" followed by the subject of the contract; and
  - b) contained in a sealed envelope or parcel which does not show the identity of the contractor in any way;
- and
- c) delivered to the place and by the date and time stated in the invitation.
- 9.02.2. Bids must be kept safe until the date and time for their opening by the officers given this duty by the Director responsible for the process.

- 9.02.3. Bids for a particular contract must be opened at the same time in the presence of two officers, one of whom has had no involvement in the process. These officers shall be responsible for properly recording the price, duration of any works and all other relevant details of each opened bid.
- 9.02.4. The Head of Procurement must approve the training and seniority of all officers employed to open bids and also the arrangements in each Directorate for ensuring the independence of such officers from the teams involved in the competitive process.

### **9.03 E- Bids**

- 9.03.1. Invitations to bid may be dispatched, and responses received, by electronic means with the prior approval of, and in accordance with a procedure specified by the Head of Procurement.
- 9.03.2. Bids received electronically must be stored securely, and must not be accessible until after the closing date and time in respect of submission of the bids.
- 9.03.3. At an appointed time for opening the electronically submitted bids, two authorised officers, one of whom has had no involvement in the process, shall both be present to access the submitted bids, and record the price, duration of any works and all other relevant details of each opened bid.

### **9.04 Late or Non Compliant Bids**

- 9.04.1. Records of any non-compliant bids and of the date and time of receipt of any late tenders must be kept by officers.
- 9.04.2. Bids received late may only be considered if the other bids have not yet been opened and:
  - a) failure to comply is the Council's fault; or
  - b) it is clear that the bid was sent in such a way that in the normal course of events it would have arrived on time.

### **9.05 E-Auctions**

In appropriate cases, the submission of prices for a bid may be conducted by e-auction using an on-line facility, with the prior approval of, and in accordance with a procedure specified by the Head of Procurement.

### **9.06 Post Tender Negotiations**

- 9.06.1. Except where the negotiated procedure referred to in CSO 9.01c and 9.01f applies, negotiation after receipt of formal bids and before the award of contract is only permitted:
  - a) with those contractors submitting the most economically advantageous bid, and

- b) with a view to obtaining an improvement in content in circumstances which do not put other contractors at a disadvantage, distort competition or adversely affect trust in the competitive process, and
- c) if the prior authority of the Head of Procurement has been obtained.

9.06.2. There may be circumstances where an officer authorised by the Director may contact a contractor in order to clarify an ambiguous bid. This does not constitute post tender negotiations.

9.06.3. All communication with contractors under this Contract Standing Order must be in writing or recorded in writing.

### **9.07 Bid Acceptance and Contract Award**

9.07.1. Bids are to be accepted on the basis of either:

a) The lowest price;

or

b) The most economically advantageous tender (i.e. the tender providing the most benefit to the Council) as determined by such criteria, to include whole life costing methodologies, as are relevant to the type of works, goods or services.

c) A Director may award, assign, or novate contracts valued at £250,000 (two hundred and fifty thousand) or less.

d) Subject to the provisions of CSO 9.07.1g, all contracts valued over £250,000 (two hundred and fifty thousand) at the time of award may only be awarded, assigned, or novated by the Cabinet. ~~Procurement Committee~~.

e) The award of any contract valued at over £500,000 (five hundred thousand pounds) is a 'key decision' and as such must be in the Council's Forward Plan and comply with the other procedures in that regard set out in the Constitution.

f) In accordance with Part 5 Section C of the Constitution, the award of spot contracts for care packages and contracts for the supply of energy to the Council are not "key decisions".

g) Contracts for the supply of energy to the Council valued over £250,000 may be awarded by a Director.

### **9.08. Conditions applying to all contracts:**

9.08.1. The tender documents in respect of every contract to which the Public Contract Regulations apply shall include a requirement that the successful contractor must enter into a collateral contract in a form approved by the

Head of Legal Services which provides for the allocation of risks between the parties where the contract has been declared ineffective by a court.

**Valued £5,000 or more:**

- 9.08.2. Except as provided in CSO 9.08.4, all contracts above £5,000 (five thousand) in value must be in writing by way of a document prepared, or on a basis approved, by the Head of Legal Services.
- 9.08.3. Where the works, goods or services to be provided under a contract are required to commence prior to the issuance and execution of a formal contract, a Director, if satisfied that it is in the Council's best interest in the particular circumstances, may approve issuance of a Letter of Intent pending the issuance and execution of a formal contract. However, the maximum cover afforded by any Letter of Intent shall not exceed 10% of the contract price in respect of works or services contracts, or £50,000 in respect of supplies contracts.
- 9.08.4. A contract made in extreme urgency or a contract for goods or services resulting from a purchase using a Council purchase card need not be in writing so long as it is confirmed in writing within four weeks.
- 9.08.5. Every contract shall specify:
- a) the works, goods or services to be provided or executed;
  - b) the price to be paid or the precise method of its ascertainment and a statement of any discounts or other deductions; and
  - d) as appropriate, the start and finish dates, or delivery dates, and any maintenance or defects liability period.
  - e) compliance with the Council's insurance requirements. The requirement to comply with the Council's standard insurance requirements may only be waived with the Director of Corporate Resource's approval.
  - f) compliance with the Council's equality policy.
  - g) compliance with regards the protection of personal data.
- 9.08.6. All contracts for the provision of services which may potentially involve either direct contact with children and vulnerable adults or access to their personal records shall contain a provision requiring the service provider (including agents and assigns) to undertake a Criminal Records Bureau check on relevant employees prior to provision of the services under the contract and at appropriate intervals thereafter.
- 9.08.7. All computer software contracts shall contain a clause to the effect that use of the software by the Council's contractors shall not amount to use by a third party for which an additional software licence might otherwise be required.

**Valued £25,000 or more:**

9.08.8. Every contract with a value of £25,000 (twenty five thousand) or more must unless the Head of Legal Services and Director of Corporate Resources agree to the contrary contain clauses to cover the following:

- a) compliance with all applicable legislation;
- b) a prohibition on assignment and/or subletting without the written consent of the Director;
- c) a provision allowing the Council to cancel the contract and recover any resulting loss from the contractor if the contractor does anything which is contrary to the Bribery Act 2010 or incites breach of Section 117 (2) of the Local Government Act 1972;
- d) a provision to ensure the Council is protected against the contractor's defective performance by default provisions which are appropriate to the contract;
- e) if the contractor is in breach of contract the Council can do any or all of the following:
  - i. determine all or part of the contract or determine the contractor's appointment;
  - ii. itself perform the contract in whole or in part;
  - iii. recover from the contractor any additional cost resulting from the completion or cancellation of the contract.
- f) If the contractor has obtained or received by whatever means any information which gives or is intended or likely to give the contractor any unfair advantage over any other tenderer (including the Council's own workforce) in relation to the tendering for, and award of, any works/services contract, that the Council shall be entitled to terminate that contract;
- g) It shall be a condition of any contract between the Council and any person (not being an Officer of the Council) who is required to manage a contract on the Council's behalf that, in relation to such contract, he/she shall comply in all respects with the requirements of these Contract Standing Orders as if he/she were an employee of the Council.

9.08.9. A contract up to and including £250,000 (two hundred and fifty thousand) in value does not require sealing and should be signed on behalf of the Council, by both the relevant Director and by the Head of the relevant business unit. However, if the nature of the works, goods or services is such as to pose a high risk of significant latent defects, then the Head of Procurement may decide to have the contract executed under seal as a deed.

### **Valued £250,000 or more:**

- 9.08.10. A contract over £250,000 (two hundred and fifty thousand) in value must be executed on behalf of the Council under seal as a deed.
- 9.08.11. Every contract which exceeds £250,000 (two hundred and fifty thousand) in value must contain clauses to cover the following:
- a) if it is a contract for works, that the Council may require the contractor to provide security for completing the contract in the form of a bond;
  - b) that where the contractor is a subsidiary or group company, the contractor may be required to provide a parent or group company guarantee.
- 9.08.12. The decision as to whether or not a bond or parent company guarantee will be required in respect of a contract that exceeds £250,000 will ultimately be made by the Director of Corporate Resources, or an officer acting under his/her delegated authority.

## **10. Waivers, Variations, Extensions and Novations**

### **10.01 Waivers**

- 10.01.1. Contract Standing Orders other than CSO 5 (which relates to the Public Contract Regulations) may be waived on the basis set out in CSO 10.01.2 by:
- a) ~~the Cabinet Procurement Committee where the contract value is more than £100,000 (one hundred thousand); 250,000; or~~
  - b) ~~a Cabinet Procurement Committee Member where the contract value is between £100,000 (one hundred thousand) and £250,000 (two hundred and fifty thousand); or~~
  - b) a Director where the contract value is £100,000 (one hundred thousand) or less (save that the Director shall not have authority to waive CSO 9.08)
- 10.01.2. A waiver may be agreed after considering a written report that demonstrates:
- a) the nature of the market for the works to be carried out or the goods or services to be provided has been investigated and is such that a departure from the requirements of Contract Standing Orders is justifiable; or
  - b) the contract is for works, goods or services that are required in circumstances of extreme urgency that could not reasonably have been foreseen; or
  - c) the circumstances of the proposed contract are covered by legislative exemptions (whether under EU or English law); or
  - d) it is in the Council's overall interest; or
  - e) there are other circumstances which are genuinely exceptional.
- 10.01.3. Waiver requests must be approved before any related contract awards, variations or extensions.

- 10.01.4. A record of the decision approving a waiver and the reasons for it must be kept and an entry made in a central register maintained and monitored by the Head of Procurement.
- 10.01.5. Where a waiver of Contract Standing Orders is sought for the second time in relation to the same individual contract, a this must be agreed by the Cabinet. Procurement Committee Member must agree those valued at £50,000 (fifty thousand) or less and be agreed by the Cabinet Procurement Committee for those valued £50,000 (fifty thousand) or more.

## **10.02 Variations and Extension**

- 10.02.1. Subject to the provisions of CSO 3.01; the Public Contract Regulations restrictions and compliance with Financial Regulations, a Director may authorise the following:
- a) any extension provided for within the terms of a contract and previously included in an award of contract decision taken by Cabinet Procurement Committee (but subject to satisfactory outcomes of contract monitoring);
  - b) or a single extension by up to six months, or half the contract term (whichever is less) of the contract not provided for within the original contract award decision; and
  - c) any variation, and if relevant a consequent change in price, determined in accordance with the contract terms.
- 10.02.2. In any other circumstances where the value exceeds £250,000 (two hundred and fifty thousand) the Cabinet Procurement Committee may vary or extend a contract providing that to do so is consistent with the Public Contract Regulations and the Council's Financial Regulations.
- 10.02.3. In addition a Director may authorise variations to a contract where either delay would incur substantial cost penalties to the Council or the proposed variations are unavoidable and/or essential for the contract to proceed or continue, and the additional cost of such variations does not exceed 25% of the value of the contract, up to a maximum of £250,000 (two hundred and fifty thousand). Variations above this level may be authorised by a Director, where the Director considers that circumstances require such authorisation, as long as such variations are reported to the Cabinet Procurement Committee at the earliest opportunity.
- 10.02.4. All variations and extensions must be recorded in writing.

## **10.03 Novations (Transfers)**

In appropriate circumstances the Council may agree to the novation or assignment of a contract. This decision must be taken based on the value of the contract at the date of award.

## **11. Contract Termination**

- 11.01. In the event of a supplier being declared bankrupt, going into administration, receivership or liquidation then a Director may terminate any associated contract(s) and initiate alternative arrangements as may be required taking into account CSO 10.03 in cases of novation or CSO 4.01 in cases that warrant the re-letting of the contract(s).
- 11.02. The decision to terminate a contract early in all other circumstances must be approved by a Director.
- 11.03. In all cases of contract termination for whatever reason where the awarded contract value was more than £250,000, a report must be presented at the earliest opportunity to Cabinet ~~Procurement Committee~~.

## **12. Schools**

In accordance with the requirements of the Council's Scheme for Financing Schools, and the Financial Regulations for Schools, where a school acts as an agent for the Council, these Contract Standing Orders apply to all schools within the London Borough of Haringey with the exception of Academy and Trust Schools. A school's governing body shall have the powers and duties of the Cabinet ~~Procurement Committee~~ specified in these Contract Standing Orders, except in relation to waivers (CSO 10.01).

## **13. Care Contracts for Individuals**

Adults & Housing Services and the Children & Young People's Service care contracts may be 'block' contracts (where a number of beds, places or services are provided by the contractor at pre-agreed pricing schedules, to which the Council may refer users over the contract period) or 'spot' contracts (one-off contracts meeting an individual user's needs, or contracts where a number of beds, places or services are provided by the contractor without pre-agreed prices, such prices to be agreed upon each referral of a user over the contract period). The Directors of the Adult & Housing Services and the Children & Young People's Service will seek to optimise overall best value for the Council. The following provisions shall apply to the Adult & Housing Services and the Children & Young People's Service care contracts:

- a) All Contract Standing Orders apply to block contracts;
- b) CSO 8.03 (in relation to quotation procedures) shall **not apply** to spot contracts;
- c) The Directors of the Adult & Housing Services and the Children & Young People's Service may award all spot contracts, which shall be reviewed at least annually as part of the review of whether the service provided continues to demonstrate value for money and meet the needs of the service user;
- d) The Directors of the Adult & Housing Services and the Children & Young People's Service shall provide bi-annual reports to the relevant Cabinet Member and an annual report to the Cabinet ~~Procurement Committee~~ detailing the nature, extent and value of spot contracts entered into in the previous period *quarter*.

#### **14. Alexandra Palace and Park**

These Contract Standing Orders apply to the procurement of works, goods and services by or on behalf of Alexandra Palace and Park Charitable Trust on the following basis:

- a) The Chief Executive of APPCT shall have the powers and duties of a Director specified in Contract Standing Orders;
- b) The Alexandra Palace and Park Board and Panel shall have the powers and duties of the Cabinet ~~Procurement Committee~~ and a Cabinet Member specified in these Contract Standing Orders;
- c) In the event of any conflict, the requirements of the Charities Act 1993, any regulations made under that Act or charity law in general shall prevail over the provisions of Contract Standing Orders.

#### **15. Disposal of assets**

- 15.01. Where Council assets (other than land & buildings) are to be disposed of because they are surplus to requirements, damaged or obsolete, reasonable endeavours must be undertaken to realise the residual value of the assets.
- 15.02. Assets having little or no realisable value may be disposed of as waste with the approval of the relevant Head of Business Unit, provided the disposal shall be in favour of recycling wherever possible.
- 15.03. In respect of assets to be disposed of having an estimated value of less than £5,000 (five thousand), the Director concerned should act in the

manner most expedient to the efficient management of the service, having kept a record for so doing.

- 15.04. Assets recommended for disposal with an estimated value of more than £5,000 (five thousand), shall be disposed of in such a manner as to secure best value.
- 15.05. Disposal of assets valued at more than £250,000 (two hundred and fifty thousand) must be reported to the Cabinet Procurement Committee.
- 15.06. Under no circumstances shall disposal of Council assets be made to employees or Members of the Council without the prior approval of the Director.

## 16. Urgent Decisions

- 16.01. These provisions apply where action needs to be taken urgently on any matter between meetings of the Cabinet Procurement Committee and that action would be outside the powers given to a Director under these Contract Standing Orders. ~~or an individual Cabinet Procurement Committee Member.~~ They may only be used in cases of genuine urgency and not to avoid proper forward planning.
- 16.02. All urgent decisions, including waivers and awards of contract, that are not “key decisions”, may be taken by the ~~Chair of the Cabinet~~ Member with responsibility for procurement ~~Committee~~ or in his/her absence by the Leader of the Council.
- 16.03. All urgent decisions, including waivers and awards of contract, that are “key decisions”, may be taken by the Leader of the Council in accordance with his/her powers under the Constitution and subject to the statutory “Special Urgency” rules where these apply. In the absence of the Leader, the decision may be taken in accordance with the provisions set out in the Cabinet Procedure Rules. ~~by the Chair of the Cabinet Procurement Committee subject to the same procedures being followed.~~

<b>Section 8    General Delegations</b>
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### **Exclusion from the General Delegations**

Excluded from these delegations below are matters which are:

- (i) Key Decisions,
- (ii) Expressly reserved to the Cabinet or Cabinet Committee within its terms of reference
- (iii) Included on the Forward Plan
- (iv) Expressly reserved to full Council within its terms of reference
- (v) Expressly reserved to a non-executive Committee or Sub-Committee within its terms of reference
- (vi) Expressly excluded from the scheme of delegation to officers under paragraphs 4.01 and 4.02 of Part 3 Section E of the Constitution. Such an exclusion will not apply where the power to set fees or charges is specifically delegated in the statutory or non-statutory delegations below.

### **General Non-Statutory Delegations to all Chief Officers and Deputy Chief Officers:**

The Chief Executive, Assistant Chief Executive, Directors and the General Manager of Alexandra Palace & Park, and all Deputy Chief Officers reporting to the afore-mentioned Chief Officers, may exercise any functions, powers and duties of the Council to take management and operational decisions on behalf of the Council. For the avoidance of doubt, these delegations are granted to all the senior officers reporting directly to the Chief Financial Officer. Decisions under these delegations must be taken in accordance with the law in those areas of responsibility assigned to the officers mentioned above in Appendix D of the Constitution from time to time:

- to secure the effective management of their services including the authorisation of any procedures or contracts within the framework of Financial Procedure Rules and Contract Procedure Rules;
- to implement and develop initiatives within the strategic policy framework and other Council plans and policy documents;
- to carry out, or authorise the carrying out, of the functions of the proper officer of the Council in any legislation relating to those areas of responsibility assigned to senior officers in Appendix D.

This authorisation includes power:

- to authorise the service of any statutory notice;
- to authorise officers to enter any land or premises in pursuance of a statutory function of the Council;
- to apply, or to authorise other officers to apply, to a Court for a warrant to enter any land or premises, in exercise of his/her responsibilities;

- to authorise the institution of any process or proceedings for administering or enforcing the functions of the Council;
- to authorise the recovery by legal proceedings of any sum to which the Council is entitled;
- to appoint officers as authorised officers for any statutory purpose;
- to supply photocopies of documents to the general public subject to making such charges as may be agreed in a scheme approved by the Chief Executive and Director of Corporate Resources, subject to the provisions of the Copyright, Designs and Patents Act 1988
- to take action on any urgent matter, whether or not power to do so is specifically delegated elsewhere, between meetings of the Cabinet or any Committee or Sub-Committee of the Council subject to statutory provisions and the provisions of Part 3 Section E of the Constitution;
- to commit the Council to any action or process when the decision-maker is acting as the principal representative of the Council on a subordinate body of the Haringey Strategic Partnership subject to this being in accordance with the Council's Budget & Policy Framework, Finance Procedure Rules and Contract Procedure Rules;

This authorisation includes the following powers in Personnel Matters:

- Taking all decisions relating to changes to the establishment, affecting ~~20~~ 50 posts or less, ~~where the relevant employees' side are in agreement or have not raised objections within the agreed timetables, but excluding the closure of schools or colleges.~~ Consultation with the relevant Cabinet Member is required before the delegated decision is taken;
- For the avoidance of doubt, when calculating the number of posts affected by a change to the establishment, this means the number of posts to be added or deleted ~~even though a different number of posts~~ and does not include posts that may be changed in nature or scope of delivery or may be subject to alteration of terms and conditions in the same restructuring;
- Power to designate posts as casual or essential users in accordance with criteria as determined by the Head of Human Resources;
- Approval of sickness pay (half and full pay) or extension beyond the national, provincial or local agreements;
- Approval of extension of special leave with pay;
- Extensions of accident pay beyond the national, provincial or local agreements;
- Grant of honoraria and where relevant ex-gratia payments to employees;
- Power to appoint applicants above the minimum permissible increment point upon appointment;
- Power to authorise accelerated increments below Senior Management pay grades;
- Approval to changes to grades on various scales/conditions for all employee groups, except for Chief Officers and Deputy Chief Officers;
- Re-designation of posts - subject to normal consultative procedures;
- Decisions not to reclaim financial assistance granted under the Post-Entry Training Scheme;
- Decision not to reclaim maternity pay;

- Deletion of vacant, unfunded posts;
- Approval of minor changes in conditions of service established practice;
- Appointments to vacancies and new posts below Deputy Chief Officer or equivalent level in accordance with agreed procedures;
- The establishment and deletion of Chief Officer and Deputy Chief Officer or equivalent level posts, the setting of the initial terms of employment including the level of starting salary, and any variation of the duties of such posts, are decisions delegated to the Chief Executive for determination in accordance with the decisions(s) previously made by the Cabinet on the service delivery aspects of a service restructuring. All appointments to such Senior Management posts must be made by an Appointments Panel, in accordance with Part 4, Section K of the Constitution, unless the Monitoring Officer advises a different procedure in any individual case for employment law reasons. The remuneration and other terms and conditions of Senior Management posts are subject to review by the Corporate Committee;
- Dismissals and disciplinary/capability action below Deputy Chief Officer or equivalent level in accordance with agreed procedures ;
- Approval of more than 5 days carry-over of annual leave to the following leave year.

### **General Non-Statutory Delegations to all Chief Officers**

The Chief Executive, Assistant Chief Executive, Directors, and the General Manager of Alexandra Palace & Park are granted the non-statutory powers set out below.

#### **Administrative Matters**

- Power to deal with requests for access to Council premises by the media
- Power to waive charges where justified in exceptional circumstances and where this is legally permissible

#### **Property Matters**

Any decision concerning the management or use of land held for the operational requirements of the officers of a Directorate may be taken by the relevant Director or Chief Officer. Any decision on the letting or disposal of land held for the Directorate shall be referred to the Director of Place and Sustainability or the Head of Property in accordance with their respective delegated powers, unless it is a key decision referred to The Cabinet or the appropriate individual Cabinet Member.

#### **Statutory Delegations**

The statutory powers in the Schedule below are granted to the Chief Executive, Assistant Chief Executive, Directors and the General Manager of Alexandra Palace & Park, and all Deputy Chief Officers reporting to the aforementioned Chief Officers. For the avoidance of doubt, these delegations are

granted to all the senior officers reporting directly to the Chief Financial Officer.

Those delegated powers, where prior consultation with, or instructions from, a Member or Member body are required before officers can exercise the powers, are shown with an asterisk \* in the right hand column.

The statutory delegations listed in the Schedule below include all local authority functions (whether expressed as a power, duty, discretion or otherwise) under the listed sections/parts of the Acts, including any related Schedules, or the whole Act if so stated, and all subordinate legislation arising under the listed Acts. The fact that certain subordinate legislation may be expressly listed, and other subordinate legislation is not listed, does not affect the generality of this delegation. The statutory delegations include all subsequent legislative amendments and additions to the listed provisions. Except where a power is expressly stated to be a "Limited Delegation", the delegations are not limited, conditioned or qualified in any way by the descriptions of the powers in the right hand column which are for information only.

<b>Schedule of Statutory Delegations</b>
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<b>Local Government (Records) Act 1962</b>	
Sections 1 & 2	Powers to promote adequate use of records and to acquire by agreement, or accept as gifts, any records of local interest
<b>Local Government (Financial Provisions) Act 1963</b>	
Section 5	Power to defray expenses properly incurred by an officer of the Council.
<b>G.L.C (General Powers) Act 1969</b>	
Section 37	Power to microfilm documents and to designate an officer who shall certify microfilm copies for evidence in Court
<b>Local Authorities (Goods &amp; Services) Act 1970</b>	
Section 1	Power to enter into any agreement with any other public body for the supply of goods and services subject to this being in accordance with the Council's Budget & Policy Framework, Finance Procedure Rules and Contract Procedure Rules;
<b>The Chronically Sick &amp; Disabled Persons Act 1970</b>	

Sections 4, 7 & 8A	Duty to make provision for the persons with needs under the Act who are members of the public or Council employees in Council premises including means of access, parking facilities sanitary conveniences and appropriate signage
<b>Local Government Act 1972</b>	
Section 138 (1)	<b>Limited Delegation:</b> Power to incur such expenditure as is considered necessary in taking action calculated to avert, alleviate or eradicate the effects of an emergency or disaster affecting the whole or part of the Borough which has occurred or is apprehended subject to the arrangements for co-ordinating response to emergencies in Article 11.07 of the Constitution
<b>Health &amp; Safety at Work Etc Act 1974</b>	
Section 2(1)	Duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees.
<b>Local Government Act 1974</b>	
Section 36(1)	Power to recover administration costs in addition to actual costs of undertaking work.
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
Section 16	Power to serve on any person occupying, having an interest in, or managing any land a notice requiring them to furnish the Council with information regarding the nature of their interest in the land and the name and address of others occupying, managing or having an interest in the land.
<b>Representation of the People Act 1983</b>	
Section 35(6)	Power to place the services of any Council officers at the disposal of any person acting as the returning officer at any Greater London Authority election for an electoral area situated wholly or partly in the Borough.
<b>Local Government &amp; Housing Act 1989</b>	
Section 150	<b>Limited Delegation:</b> To exercise and perform any powers and duties contained in any regulations made by the Secretary of State under this section permitting the making of a charge for any Council function for which there is no other statutory power to charge. The power to set any charges or scales of charges shall be exercised in consultation with the relevant Cabinet Member. *
<b>Charities Act 1993</b>	

Section 78	Power to make arrangements for co-ordinating the activities of the Council and those of any charity established for purposes similar or complementary to services provided by the Council in the interests of persons who may benefit from those services or from the charity and to disclose to any such charity any information obtained in connection with the services provided by the Council.
<b>Civil Evidence Act 1995</b>	
Section 9	Power to certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings
<b>Local Government Act 1999</b>	
Sections 3 & 3A	Duty to arrange consultation with tax payers, non-domestic rate-payers, service users and other local representatives about fulfilment of the best value duties and duty to involve representatives of local persons in the exercise of Council functions
<b>Local Government Act 2000</b>	
Sections 2, 3 & 4	<b>Limited Delegation:</b> Powers to take steps to promote economic, social and environmental well-being subject to advice from the Head of Legal Services on each proposed exercise of these powers
Section 92	Power to approve compensation payments to remedy complaints in accordance with the Corporate Complaints Procedure and Financial Regulations
<b>Criminal Justice &amp; Court Services Act 2000</b>	
Section 35	Duty to ensure that a person who is disqualified from working with children under the terms of this Act is not offered work in a regulated position (as defined in section 36 of this Act) and that any such person who is so employed is removed from such work.
<b>Criminal Justice and Police Act 2001</b>	

Sections 50, 52-55, 60-62	Power to authorise any officer exercising a power to enter and/or seize items found on premises to exercise the additional powers of seizure contained in this section, to give the required notice under section 52 of this Act, and to perform the duties contained in sections 53-55 of this Act (to return certain items seized) and sections 60-62 of this Act (to secure certain items seized).
<b>Local Government Act 2003</b>	
Section 93	Power to charge for discretionary services.
<b>Civil Contingencies Act 2004</b>	
Sections 5 & 7	Powers to implement Central Government Orders and Directions on civil protection
<b>Climate Change and Sustainable Energy Act 2006</b>	
Section 3	Duty to have regard to the most recent energy measures report from central government when exercising delegated powers and making recommendations to Members
<b>Local Government and Public Involvement in Health Act 2007</b>	
Section 108	Duty to have regard to relevant local improvement targets specified in the local area agreement when exercising delegated powers and making recommendations to Members
<b>Equality Act 2010</b>	
Section 149	Duty to have due regard, when carrying out any of the Council's functions, to the need to eliminate discrimination, harassment and victimisation and to promote equality of opportunity and foster good relations.