

**London Borough of Barnet**

# The Constitution

## Introduction and Summary to the Constitution

The Constitution sets out the parameters within which the Council should operate, how decisions are to be made and the procedures which are to be followed; this is to ensure that the Council is efficient, transparent and accountable to residents. Some of these processes are required by law, while others are a matter for the Council to choose.

The Constitution is divided into the following sections:

### Part 1 - The Articles

- Article 1 - The Constitution
- Article 2 - Members and The Council
- Article 3 - The Full Council
- Article 4 - The Mayor
- Article 5 - Decision Making
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- Article 7 - Officers

### Part 2 - Allocation of Responsibilities

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### Part 4 - Regulations, Rules and Codes

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- Part 4H - Code of Corporate Governance

- Part 4I - Members' Allowance Scheme
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- Part 4K - Members' Rights to Access Information - Guidance and protocol
- Part 4L - Code of Recommended Practice on Local Authority Publicity
- Part 4m - Code of Conduct for Officers

## 1 How the Council operates

- 1.1 The Council is composed of 63 Councillors (Members) elected every four years. Councillors are democratically accountable to all residents in the Borough and in particular to those living in the Ward to which they have been elected. 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.
- 1.2 Councillors have agreed to follow the Code of Conduct for Members to ensure high standards in the way they undertake their duties.
- 1.3 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.
- 1.4 The Council appoints the Overview and Scrutiny Committee, which has the role of checking the actions of the Executive in delivering services and helping the Executive to develop plans and policies.
- 1.5 Members of the public can present petitions and ask questions at meetings of the Council.

## 2 How decisions are made

- 2.1 The Executive is the part of the Council, which is responsible for most day to day decisions. The Executive is made up of the Leader and between two and nine other Councillors appointed by the Council, this group is also known as the Cabinet.
- 2.2 When major decisions are to be discussed or made, they must be published in the Council's Forward Plan in so far as they can be anticipated. This Forward Plan will be regularly updated and is available to the public so they can monitor all the important decisions made by the Executive. When these major decisions are to be discussed at a meeting of the Executive (or Cabinet), these meetings will be open to the public to attend, except where personal or confidential matters are to be discussed.
- 2.3 The Executive has to make decisions, which are in line with the Council's overall policies and budget. If it wishes to make a decision, which is outside the budget or policy framework, this must be referred to the Council as a whole to decide (unless the matter is so urgent that special arrangements have to apply).

## 3 Overview and Scrutiny

- 3.1 The Council has an Overview and Scrutiny Committee, which in turn appoints Scrutiny sub-committees, which support the work of the Executive and the Council as a whole.
- 3.2 The Overview and Scrutiny Committee and Scrutiny sub-committees play a role in the formulation of the policies and strategies of the Council and in the setting of the budget. They can be consulted by the Executive or the Council on forthcoming decisions and the development of policy. They can scrutinise areas of the Council's work before or after decisions are made.

3.3 The Overview and Scrutiny Committee can monitor the decisions of the Executive and have a power to “call-in” certain decisions of the Executive where they have yet to be implemented. When an Executive decision is “called-in” the Executive can be asked to reconsider its decision. However, the Overview and Scrutiny Committee cannot overrule the Executive.

#### **4 Other Committees**

4.1 Further information on other committees can be found in Part 2 of this Constitution.

#### **5 The Council’s Staff**

5.1 The Council has people working for it (called “officers”) to give advice, implement decisions and manage the day to day delivery of services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. The Code of Conduct for Officer Member Relations at Part 4G of the Constitution governs the relationship between officers and Members of the Council (Councillors).

#### **6 Citizens’ Rights**

6.1 Citizens<sup>1</sup> have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council’s own processes.

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

6.3 The Council welcomes participation by citizens in its work.

6.4 Further information on how to attend and participate at meetings can be found on the Authority’s website at: <https://www.barnet.gov.uk/your-council/democracy-barnet>

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<sup>1</sup> For the purposes of this Constitution, the term Citizens includes (where appropriate) those people who study, work or have businesses in Barnet.



# London Borough of Barnet

## Constitution

# Part 1 - The Articles

- Article 1 - The Constitution
- Article 2 - Members and The Council
- Article 3 - The Full Council
- Article 4 - The Mayor
- Article 5 - Decision Making
- Article 6 - The Executive
- Article 7 - Officers

# Article 1

## The Constitution

### Introduction

**This Article sets out the fundamental provisions of the Constitution. It confirms that the Authority will act within the law and the provisions of this Constitution, and that the Authority will monitor and review its Constitution. It also provides for methods of changing the constitution, and for its publication.**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

1.2.1 This Constitution, and all its appendices, is the Constitution of the Council of the London Borough of Barnet.

#### **1.3 Purpose of the Constitution**

1.3.1 The purpose and principles outlined in the Constitution seek to:

- enable the Council to provide clear leadership to the community;
- work in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision makers to public account;
- provide excellent standards of ethics and probity in decision making;
- ensure that those responsible for decision making are clearly identifiable to local people;
- explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

#### **1.4 Interpretation of the Constitution**

1.4.1 The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in this Article.

#### **1.5 Review and Amendment of the Constitution**

1.5.1 The Council will monitor and evaluate the operation of the Constitution and will amend it as appropriate.

1.5.2 Where changes must be approved by Full Council, the Monitoring Officer, having first consulted with the Leader of the political groups or their nominees, may present a report direct to Council proposing changes to the Constitution. Subject to any statutory requirements, the Codes and Protocols and other documents in Part 4 of the Constitution may be reported to the relevant committee prior to adoption by Full Council.

**1.6 Publication**

1.6.1 The constitution is published on the Council's website and updated when amendments are made.

**1.7 Change from a Leader and Executive form of governance to alternative arrangements, or vice versa.**

1.7.1 The Council must comply with any statutory requirements in relation to such changes.

**1.8 Suspension of the Constitution**

1.8.1 The Articles of this Constitution may not be suspended. Other Rules and Protocols may be suspended by the body to which they apply (or if no such body, by the Council) to the extent permitted within those Rules, and Protocols and the law.

## Article 2

### Members and the Council

#### 2.1 Introduction

- 2.1.1 This Article sets out how Councillors are elected.
- 2.1.2 It also includes a statement on the roles and functions of Members of the Council and sets out the rights and duties of Councillors.

#### 2.2 Powers of the Council

- 2.2.1 The regular election of Councillors will be held on the first Thursday in May every four years beginning in May 2002.
- 2.2.2 The terms of office of Councillors will start on the fourth day after being elected and except for the Leader and Mayor, will finish on the fourth day after the date of the next regular election unless they are re-elected.

#### 2.3 Roles and functions of all Members

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

#### 2.4 Key tasks:

- 2.4.1 Fulfil the statutory and locally determined requirements of an elected Member of the Council including compliance with all relevant codes of conduct, and participation in those decisions and activities of the Full Council and its committees;
- 2.4.2 Represent the Council to the community, and the community to the Council, through the various forums available;
- 2.4.3 Develop and maintain a working knowledge of Barnet's services, activities and other factors which impact upon the community's wellbeing and identity;
- 2.4.4 Contribute constructively to open government and democratic renewal through active encouragement of the community to participate generally in the government of the area; and
- 2.4.5 Participate in training sessions made available to Members by the Council.

#### 2.5 Access to Information

- 2.5.1 Members will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and officers will keep Ward Members informed of matters relating to their Ward.
- 2.5.2 Members will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a



Councillor or officer entitled to know it, to do so would be a breach of the Members Code of Conduct

2.5.3 “Confidential” and “exempt” information are defined in the Access to Information Rules set out in this Constitution.

2.5.4 Further details can be found in the Members Information Management Policy and Toolkit.

## **2.6 Members Rights to Call-in Planning Applications.**

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

## **2.7 Member Requests to Speak at Planning Committees.**

2.7.1 Members may address a planning committee on any application, unless they have a pecuniary interest in which case they are precluded.

2.7.2 Members should give notice to the Chair of the meeting of their intention to speak before the start of the meeting. Details of how Members can exercise these rights can be found in this constitution. Members’ rights to address planning committees are in addition to the rights of public speakers. MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a planning committee on a matter which affects their constituency or ward. Details can be found in this constitution. Notice should be given to the Chair of the meeting before the start of the meeting.

## **2.8 Members’ rights to attend and speak at committees or subcommittees when they are not a Member of the committee.**

2.8.1 Councillors may attend any Cabinet meeting, Council Committee or Sub-Committee, even when they are not appointed to them, but they cannot vote and should sit with members of the public. Apart from planning committees (which is dealt with above) and licensing sub committees Councillors may speak at a committee meeting subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent. Details of these rights can be found in this constitution.

2.8.2 The Lead Member for Children’s Services and Adults Services has a right to address a Committee, Sub-Committee or Partnership Board for up to three minutes when it is considering matters which relate children and young people, subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent Members may remain for the private part of any committee meeting.

## **2.9 Conduct**

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

## **2.10 Allowances**

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

**2.11 Disclosure and Barring Service**

2.11.1 The following posts require a Disclosure and Barring Service Check:

- The Mayor and Deputy Mayor
- Any Portfolio Holder with responsibility for Children’s matters including schools.
- Any Portfolio Holder with responsibility for Adults and Public Health matters
- Any Scrutiny Chairs for Adults or Children
- Any members on the following: Corporate Parenting Advisory Panel, Barnet Children’s Partnership Board, Barnet Safeguarding Children Partnership, Adults Safeguarding Board

## Article 3

### The Full Council

#### **3.1 Introduction**

3.1.1 This Article defines the functions that are reserved for decision by the Full Council.

3.1.2 The Council is responsible for approving the policy framework and the annual revenue and capital budget.

3.1.3 The Council and its Committees also retains responsibility for:

- (i) regulatory functions (which include planning, licensing and health and safety at work);
- (ii) certain constitutional and quasi-legislative functions (primarily the conduct of elections and making of by-laws) and
- (iii) most of the local choice functions which the Council is free to decide whether they are the responsibility of Full Council or the Executive. The Council also has a role in holding the Executive to account.

#### **3.2 Meanings**

#### **3.3 Policy Framework**

3.3.1 The policy framework means the following plans and strategies:

3.3.2 Those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended):

- Safer Community Strategy
- Statement of Gambling Licensing Policy
- Statement of Licensing Policy
- Local Implementation Plan
- Plans and strategies which together comprise the Development Plan
- Youth Justice Plan

3.3.3 Further Plans, which the Council considers, should or legislation requires to be subject to Council approval:

- Council's Corporate Plan (The Plan for Barnet)
- Corporate Equalities Objectives
- Corporate Parenting Strategy
- Sustainable Community Strategy

#### **3.4 Budget**

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

#### **3.5 Housing Land Transfer**

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3.5.1 Housing Land Transfer means the approval or adoption of applications to the Secretary of State for approval to a programme of disposal of 500 or more Council properties 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.

### **3.6 Functions of the Full Council**

3.6.1 The functions of Full Council are set out in Part 2A of the Constitution.

## Article 4

### The Mayor

#### 4.1 Introduction

4.1.1 This Article describes the appointment and role of the Mayor

#### 4.2 Appointment of the Mayor and Deputy Mayor

4.2.1 The Mayor will be appointed annually by the Council from amongst the Councillors. The Deputy Mayor will be appointed by the Mayor annually from amongst the Councillors and this will be noted by Council.

4.2.2 Neither the Mayor nor Deputy Mayor can be a member of the Executive.

4.2.3 The Deputy Mayor may stand-in for the Mayor in respect of all the roles and functions set out in paragraphs 2 and 3 whenever the Mayor is unable to act (for example, due to an overlap of events).

4.2.4 If the Deputy Mayor is also unavailable to perform a role or function in paragraph 2, it shall be open for the Mayor to request a former Mayor of the Borough, to act in their place for that particular occasion.

#### 4.3 Ceremonial

4.3.1 The Mayor shall be the First Citizen of the Borough;

4.3.2 The Mayor will promote the Council as a whole and act as a focal point for the community;

4.3.3 The Mayor will preside over civic functions;

4.3.4 The Mayor will carry out ceremonial duties on behalf of the Authority. They will be a symbol of the Authority and of an open society and will perform their duties in a manner that develops and reinforces the social cohesion of the Borough;

4.3.5 The Mayor will promote local charitable and voluntary causes where they benefit the people of Barnet;

4.3.6 The Mayor will also personally select a local charity or charities and raise funds specifically for it or them during their year of office;

4.3.7 The Mayor will promote citizenship and participation;

4.3.8 The Mayor will act as a non-partisan ambassador of the Council at notable events, for example, in meeting and greeting members of the Royal Family and international delegations;

4.3.9 The Mayor will put forward local people who are deemed to be deserving for national awards and honours (for example, local people who have made a unique or exceptional contribution to the Borough in a voluntary capacity);

4.3.10 The Mayor will lead the Council's support and activities for Remembrance Sunday, Holocaust Memorial Day, Armed Forces Day and other similar locally marked national events.

#### 4.4 Charing meetings of the Council

4.4.1 The Mayor will have the following responsibilities:

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- to uphold and promote the purposes of the Constitution, and to interpret it when necessary;
- to preside over meetings of the Council, so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Executive are able to hold the Executive Members to account;
- to promote public involvement in the Council's activities;
- such other duties that may fall to the Mayor to exercise by virtue of statute or this Constitution.

4.4.2 In the absence of the Mayor, the Deputy Mayor will chair meetings of the Council with the agreement of the Council. In the absence of both the Mayor and the Deputy Mayor, the Council will, as a first item of business, appoint one of its Members to chair the meeting.

## Article 5

### Decision Making

#### 5.1 Introduction

5.1.1 This Article provides for the recording of decisions of the Council and the Executive and the principles governing those decisions

#### 5.2 Responsibility for decision making

5.2.1 The Council will issue and keep up to date a record of what part of the Council or which individual has the responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in the Allocation of Responsibilities in Part 3 of the Constitution.

#### 5.3 Principles of decision-making

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

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness;
- clarity of aims and desired outcomes;
- a recording of options considered and rejected.

#### 5.4 Type of Decision

##### 5.4.1 Decisions reserved to Full Council

Decisions relating to the functions listed in Part 3B will be made by the Full Council and may not be delegated.

##### 5.4.2 Key Decisions

A Key Decision is an executive decision which:

- (i) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (ii) is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the Borough.

5.4.3 A decision is significant for the purposes of (i) above if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question.

5.4.4 Decision takers may only take key decisions in accordance with the requirements of Rule 23 of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### 5.5 Decision making by Council bodies acting as tribunals or in a quasi-judicial manner

The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining or considering (other than for the purposes of giving advice) the civil rights 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 in addition to the procedural rules of that body.



## Article 6

### The Executive

- 6.1 The Council will appoint the Leader of the Council.
- 6.2 The Leader will determine the size and membership of the Executive, will appoint Members to the Executive and appoint one of those Members as the Deputy Leader.
- 6.3 When determining the allocation of responsibilities (see Part 3 of the Constitution) the Leader will also determine any delegations to individual Members (of the Executive) who will be known as Portfolio Holders.
- 6.4 The Executive will consist of the Executive Leader together with at least two but not more than nine other Councillors.
- 6.5 The Terms of Reference set out the Executive's functions.
- 6.6 The Rules of Procedure set out and determine how the Executive will operate and include arrangements for meetings, individual decision-making, and the Allocation of Responsibilities.
- 6.7 There may be no co-optees, deputies nor substitution of Executive Members.
- 6.8 Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Executive. No member of the Audit committee may be an executive member.
- 6.9 The Chair of any planning committee may not be an executive member. No member of the Strategic Planning Committee may be an executive member.
- 6.10 Members of the Executive may not be Members of the Overview or Scrutiny Committee or one of its sub-committees.
- 6.11 Part 3A of the Constitution includes a full description of the responsibilities of Portfolio Holders.

## Article 7

### Officers

**7.1 Introduction**

7.1.1 This Article describes the management structure of the Authority and the responsibilities of the Statutory and Chief Officers.

7.1.2 ‘Officers’ means all employees and staff engaged by the council to carry out its functions. Those engaged under short term, agency or other non-employed situations as well as those employed on a permanent basis are covered.

**7.2 Management Structure**

**7.2.1 General**

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

**7.3 Chief Officers**

The Council will engage persons for the following posts, who will be designated Chief Officers.

Post	Functions and areas of responsibility
Chief Executive (Head of Paid Service)	<ul style="list-style-type: none"> <li>• Overall corporate management and operational responsibility (including overall management responsibility for all officers).</li> <li>• Provision of professional advice to all parties in the decision-making process.</li> <li>• Representing the Council on partnership and external bodies (as required by statute or the Council).</li> <li>• Promote the importance of the ethical agenda and to sustain the highest standards of ethical behaviour on the part of the Council’s officers in the performance of their duties in accordance with the requirements of the Officers Code of Conduct set out in this Constitution.</li> </ul>
Deputy Chief Executive	<ul style="list-style-type: none"> <li>• Growth (Development and Economy; Housing and Regeneration; Brent Cross; Capital Delivery and Growth; Estates and Acquisitions)</li> <li>• Environment (Street Scene; Parking Transport and Highways;)</li> <li>• Commercial Services</li> <li>• Programmes, Performance and Risk</li> <li>• Planning and building Control</li> </ul>
Executive Director of Children and Young People	<ul style="list-style-type: none"> <li>• Children’s Social Care (Help and Protection &amp; Corporate Parenting and Disability)</li> <li>• Education and Skills</li> <li>• Strategy and Partnerships</li> <li>• Libraries</li> </ul>

Post	Functions and areas of responsibility
Executive Director of Strategy and Resources	<ul style="list-style-type: none"> <li>• Finance, including Pensions and Treasury</li> <li>• Revenues &amp; Benefits</li> <li>• HR and Organisational Development</li> <li>• Exchequer</li> <li>• Strategy and Communications</li> <li>• Equalities Diversity and Inclusion (EDI)</li> </ul>
Executive Director Adult, Communities and Health	<ul style="list-style-type: none"> <li>• Adult Social Care</li> <li>• Leisure &amp; Physical Activity</li> <li>• Greenspaces, Trees &amp; Woodlands</li> <li>• Mortuary and Cemetery &amp; Crematorium</li> </ul>
Executive Director of Assurance	<ul style="list-style-type: none"> <li>• Organisational Resilience (Insurance Emergency Planning and Business Continuity)</li> <li>• Audit and Anti-Fraud</li> <li>• Community Safety, CCTV and Enforcement</li> <li>• Corporate Complaints</li> <li>• Electoral Services</li> <li>• Records and Information Management</li> <li>• Environmental Health</li> <li>• Trading Standards and Licensing</li> <li>• Governance Service and Mayor's Office</li> <li>• Legal Services Contract Management</li> </ul>
Director of Public Health and Prevention	<ul style="list-style-type: none"> <li>• Public Health</li> <li>• Prevention and wellbeing</li> <li>• Intelligence and Insight</li> <li>• Response to public health emergencies and health protection incidents</li> <li>• Health and Safety and Workforce Wellbeing</li> </ul>
Director of Transformation	<ul style="list-style-type: none"> <li>• Transformation</li> <li>• Procurement</li> <li>• Customer and Digital Services including Registrars</li> </ul>

## 7.4 Statutory Officers

7.4.1 The Council will designate the following posts as shown:

Post	Designation
Head of Paid Service	Head of Paid Service
Executive Director of Strategy and Resources	Chief Financial Officer (Section 151 Officer)
Executive Director Children and Young People	Director of Children's Services
Executive Director Adult, Communities and Health	Director of Adult Social Services
Monitoring Officer	Monitoring Officer
Head of Governance	Scrutiny Officer

Post	Designation
Director of Public Health and Prevention	Director of Public Health

## 7.5 Departmental Structure

7.5.1 The Head of Paid Service will determine and publish a description of the overall departmental structure for the Council. This will outline the management structure and the deployment of officers.

## 7.6 Delegations

7.6.1 Some decisions are made by officers under approved delegated powers. A list of all the functions delegated to chief officers is included in Part 2G of this Constitution.

## 7.7 Functions of the Head of Paid Service

### 7.7.1 Discharge of functions by the Council

The Head of Paid Service will report to the 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.

### 7.7.2 Discharge of functions by the Council

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

## 7.8 Functions of Monitoring Officer

### 7.8.1 Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public.

### 7.8.2 Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Executive in relation to an executive function, if they consider that any proposal, decision or omission in the course of the discharge of functions of the authority by or on behalf of the authority constitutes, has given rise to or is likely to or would give rise to a contravention of any enactment or rule of law or statutory code of practice or maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### 7.8.3 Ensuring the lawfulness of council operating procedures

After consulting with the Head of Governance and the relevant senior manager the Monitoring Officer will report to the Head of Paid Service any council process or procedure which they consider could give rise to unlawfulness or if any such process or procedure would give rise to maladministration.

### 7.8.4 Supporting the Governance, Audit, Risk Management and Standards Committee in respect of standards and advising on the Code of Conduct

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance, Audit and Standards Committee. They will also provide advice to Members of the Council and act as

the proper officer to receive complaints of failure to comply with the Members Code of Conduct. They will also make decisions about member complaints as set out in the Procedure for Dealing With Complaints Against Members.

**7.8.5 Advising whether Executive decisions are within the budget and policy framework**

Where necessary, the Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

**7.8.6 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 framework issues to all Councillors.

**7.8.7 Register of Member's financial and other interests**

The Monitoring Officer assisted by the Head of Governance will establish and maintain a register of Members' interests and gifts and hospitality. These registers will be open to public inspection at all reasonable times.

**7.8.8 Restrictions on posts**

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

**7.9 Functions of the Chief Finance Officer**

**7.9.1 Ensuring lawfulness and financial prudence in decision making**

7.9.1.1 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to:

- the Full Council; or
- to the Executive in relation to an Executive function; and
- to Council's external auditor

7.9.1.2 If they consider that any proposal, decision or course of action will:

- involve incurring unlawful expenditure; or
- is unlawful and is likely to cause a loss or deficiency; or
- if the Council is about to enter an item of account unlawfully.

**7.10 Estimates and resources**

7.11 In accordance with the Local Government Act 2003 to advise on the robustness of estimates and level of resources.

**7.12 Administration of financial affairs**

7.13 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council including Pensions Governance.

**7.14 Contributing to corporate management**

7.15 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**7.16 Providing financial advice**

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7.17 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

### **7.18 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

### **7.19 Functions of the Director of Children's Services**

#### **7.19.1 Local Education Authority**

The Director of Children's Services will have responsibility for functions conferred on or exercisable by the authority in their capacity as a Local Education Authority.

#### **7.19.2 Social Services (relating to children)**

The Director of Children's Services will have responsibility for functions conferred on or exercisable by the authority, which are social services functions so far as those functions relate to children.

#### **7.19.3 Improving well-being**

The Director of Children's Services will have responsibility for making arrangements with a view to improving the well-being of children in the authority's area.

#### **7.19.4 Safeguarding and welfare**

The Director of Children's Services will have responsibility for safeguarding and promoting the welfare of children.

#### **7.19.5 Establishing Information Databases**

The Director of Children's Services will establish and maintain information databases in relation to the well-being and safeguarding of children.

#### **7.19.6 Preparation and publication of the Children's and Young People's Plan**

The Director of Children's Services will prepare and publish a Children's and Young People's Plan setting out the authority's strategy for discharging their functions in relation to children and relevant young persons.

#### **7.19.7 Function on behalf of an NHS Body**

The Director of Children's Services will have responsibility for function under section 31 of the Health Act 1988 on behalf of an NHS body so far as those relate to children.

#### **7.19.8 Any other function**

7.19.9 The Director of Children's Services will have responsibility any additional functions, as the authority considers appropriate.

### **7.20 Functions of the Director of Adult Social Services**

#### **7.20.1 Discharge of Functions by the Council**

The Director of Adult Social Services will have responsibility for all functions social services functions (other than those for which the Director of Children's Services is

responsible) in accordance with Section 6 of the Local Authority Social Services Act 1970 (as amended) by the Children Act 2004.

**7.21 Functions of the Director of Public Health (DPH)**

- 7.21.1 The DPH is responsible for writing the Annual Report on the health of the local population.
- 7.21.2 The DPH is responsible for all of the local authority's duties to take steps to improve public health.
- 7.21.3 The DPH is responsible for exercising the local authority's functions in planning for, and responding to, emergencies that present a risk to public health.
- 7.21.4 The DPH is responsible for exercising the local authority's role in co-operating with the Police, the Probation Service and the Prison Service to assess the risks posed by violent or sexual offenders.
- 7.21.5 The DPH is responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.
- 7.21.6 The DPH is responsible for exercising the local authority's duties to ensure plans are in place to protect their population including through screening and immunisation.
- 7.21.7 The DPH is responsible for any of the Secretary of State's public health protection or health improvement functions that s/he delegates to local authorities, either by arrangement or under regulations. These include services mandated by regulations made under section 6C of the 2006 Act, inserted by section 18 of the 2012 Act;
- 7.21.8 The DPH is responsible for such other public health functions as the Secretary of State specifies in regulations, including services prescribed under Section 6C of the 2006 Act and under dental public health powers under in 111 of the 2006 Act, as amended by the 2012 Act.

**7.22 Functions of the Scrutiny Officer**

**7.22.1 Promotion of Overview and Scrutiny**

The Scrutiny Officer will promote the role of the Overview and Scrutiny Committee and its sub-committees.

**7.22.2 Support to the Overview and Scrutiny Committee**

The Scrutiny Officer will provide support to the Overview and Scrutiny committee and sub-committees and their members.

**7.22.3 Support and guidance to Members and officers**

The Scrutiny Officer will provide support and guidance to Members and officers in relation to the functions of the Overview and Scrutiny Committee and its sub-committees.

**7.23 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Councillor - Officer Relations set out in Part 4G of this Constitution.

**7.24 Employment**

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The recruitment, selection and dismissal of officers will comply with the HR Regulations set out in Part 4C of this Constitution





# London Borough of Barnet

## Constitution

### Part 2 -

## Allocation of Responsibilities

- Part 2A - Terms of reference of Council
- Part 2B - Terms of reference and delegation of duties to Committees and Sub-Committees
- Part 2C - Joint arrangements
- Part 2D - Terms of reference and delegation to the Cabinet
- Part 2E - Terms of reference of Portfolio Holders
- Part 2F - Delegation to Head of Paid Services, Chief Officers and Statutory Officers
- Part 2G - Terms of Reference Functions not to be the Responsibility of the Executive

## Part 2A

### Terms of Reference of Council

#### Council

##### The Full Council

- 1. Only the full Council can exercise the following functions:**
  - 1.1 adopting and changing the Constitution;
  - 1.2 approving or adopting the policy framework and the budget, including setting Council tax, determining borrowing limits, approval of the capital programme;
  - 1.3 approving the Pay Policy Statement
  - 1.4 approving any application to the Secretary of State in respect of any Housing Land Transfer;
  - 1.5 appointment of the Mayor and noting the appointment of the Deputy Mayor;
  - 1.6 electing chairs and vice chairs of committees;
  - 1.7 appointing the Leader and noting Members of the Executive;
  - 1.8 noting the appointment of the Leader of the Opposition
  - 1.9 approving annually the Allocation of Responsibilities of this Constitution;
  - 1.10 subject to the urgency procedure contained in the Access to Information Procedure Rules in this Constitution, making decisions about any Executive functions which are contrary to the policy framework or contrary to or not wholly in accordance with the budget where these have been referred to the Council by the Call-In sub-committee;
  - 1.11 agreeing and/or amending the terms of reference for the Committees of the Council, deciding on their composition and making appointments to them;
  - 1.12 adopting the Scheme of Members' Allowances set out in the Constitution;
  - 1.13 appointing the Independent Persons under s.27(7) of the Localism Act;
  - 1.14 conferring the title of honorary alderman or freedom of the borough; confirming the appointment of the Head of Paid Service or the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer;
  - 1.15 to confirm the dismissal, appointment and designation of the Head of Paid Service;
  - 1.16 to confirm the dismissal and designation of the Monitoring Officer and Chief Finance Officer;
  - 1.17 deciding whether to reject or uphold an appeal against a disciplinary sanction (including dismissal) imposed on an officer by the Employment Sub-committee;
  - 1.18 to approve packages for newly created posts over £100,000 (packages to include salary, bonuses, fees and allowances and benefits in kind);
  - 1.19 to approve any severance packages for Officers of £100,000 or over.  
(packages to include pay in lieu of notice, redundancy compensation and pension strain, and any bonuses, fees or allowances paid) (report to be taken to Council in advance of any restructure which may result in such payments);

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- 1.20 making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local legislation or personal bills;
- 1.21 to determine the meaning of “significant” in relation to “key” decisions (Article 6 refers);
- 1.22 deciding whether to make a delegation of a non-Executive function or accept a delegation of a non-Executive function from another Authority;
- 1.23 to receive reports and consider recommendations from the Executive; Scrutiny; Governance, Audit, Risk Management and Standards and other Committees as appropriate; and
- 1.24 making appointments and nominations of Members including council companies to outside bodies; and
- 1.25 all other matters which by law must be reserved to Council.

Note: The items referred to in Schedule 1 to the Functions and Responsibilities Regulations in this Constitution may not be the responsibility of the Executive and will be discharged by the Council, one of its Committees or an officer.

## Part 2B & Part 2C

# Terms of reference and delegation of duties to Committees and Joint arrangements

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## Part 2B - Terms of Reference and Delegation of Duties to Committees and Sub-Committees

### 1 Appeals Committee

- 1.1 The Appeals Committee is comprised of 3 members, including one member of the Executive, who are not also members of the Employment Sub-committee. Council will appoint 1 substitute Member from each group.
- 1.2 The Committee shall hear appeals by the Head of Paid Service, Chief Finance Officer and Monitoring Officer under the relevant disciplinary procedure against action taken against them short of dismissal.
- 1.3 The Committee may uphold the decision or reduce or remove the sanction.

#### 1.4 Quorum

- 1.5 2 Members

### 2 Governance, Audit, Risk Management and Standards Committee

#### 2.1 Statement of purpose

- 2.2 The Governance, Audit, Risk Management and Standards Committee is a key component of Barnet Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

- 2.3 The purpose of the committee is to provide independent assurance to the members of the adequacy of Barnet Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place. It also acts as the Standards Committee.

- 2.4 The Governance, Audit, Risk Management and Standards Committee has the following powers and duties:

- 2.4.1 To review the council's corporate governance arrangements against the good governance framework, including the ethical framework, and consider the local code of governance.
- 2.4.2 To monitor the effective development and operation of risk management in the council.
- 2.4.3 To monitor progress in addressing risk-related issues reported to the committee
- 2.4.4 To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
- 2.4.5 To consider reports on the effectiveness of financial management arrangements, including compliance with CIPFA's Financial Management Code.
- 2.4.6 To consider the council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 2.4.7 To review the governance and assurance arrangements for significant partnerships or collaborations.

- 2.4.8 To approve the internal audit charter and support the independence of Internal Audit.
- 2.4.9 To review proposals made in relation to the appointment of external providers of internal and external audit services and to make recommendations.
- 2.4.10 To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
- 2.4.11 Anti-Fraud Activity, to monitor the effective development and operation of the Council's Corporate Anti-Fraud Team (CAFT) and approve the Counter Fraud Framework.
- 2.4.12 To review any issue referred to it by the Chief Executive and to oversee the production of the authority's Annual Governance Statement and to recommend its adoption.
- 2.4.13 Accounts, to review and approve the annual statement of accounts and consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- 2.4.14 Annual Report, the Audit Committee shall prepare a report to Full Council on annual basis on its activity and effectiveness
- 2.4.15 To review the Treasury Management strategy and monitor progress on treasury management in accordance with CIPFA codes of practice.
- 2.4.16 To agree and have oversight of the Council's Whistleblowing Policy.
- 2.4.17 To have oversight of the Council's ombudsman complaints and internal complaints performance (excluding complaints for Adults and Children's complaints).
- 2.4.18 Promoting and maintaining high standards of conduct by Members, co-opted members and "church" and parent governor representatives.
- 2.4.19 Monitoring the operation of the Members' Code of Conduct.
- 2.4.20 To establish sub-committees and working groups to deal with complaints that a member or a co-opted member has failed to comply with the Council's Code of Conduct.
- 2.4.21 On referral from the Monitoring Officer, to decide whether to take action against a member for breach of the Code of Conduct and if so, to decide what action should be taken.
- 2.4.22 Determine Members requests for non-committee information as specified in the Members Information Management Policy
- 2.4.23 To oversee Member Development
- 2.4.24 To consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.

2.4.25 Upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

## **2.5 Membership**

2.5.1 An Elected Mayor, the Leader or a member of the Executive may not be Members;

2.5.2 Membership of this Committee will be 6 elected Members and Council will appoint 3 substitutes from each group;

2.5.3 There will also be 2 Independent Members (for audit matters);

2.5.4 The Independent Persons are not members of this Committee and shall be invited to meetings if there is a Standards item on the agenda.

## **2.6 Quorum**

2.6.1 4 members

## **3 Standards Sub-committee**

3.1 This is a sub-committee of GARMS set up to hear standards complaints about Members in accordance with the procedure for dealing with complaints against Members set out in this Constitution.

### **3.2 Membership**

3.2.1 4 Members drawn from the GARMS Committee (2 from each of the main Political Groups) and an Independent Person.

3.2.2 Council will appoint 1 substitute from each group.

### **3.3 Quorum**

3.3.1 3 members

## **4 Health and Wellbeing Board**

### **4.1 Accountability**

4.1.1 The Health and Wellbeing Board is set up in accordance with section 102 of the Health and Social Care Act 2012 which makes provision for the Council to establish a Health and Wellbeing Board as a Committee of the Council appointed under section 102 of the Local Government Act 1972. The Council can choose to delegate decision making powers to the Health and Wellbeing Board.

4.1.2 Members of the Board will be required to abide by the Code of Conduct.

### **4.2 Purpose of the Board**

4.2.1 The Health and Wellbeing Board has the following main functions:

4.2.2.1. To work (together with Barnet Borough Partnership) with Integrated Care Partnership (ICP) and Integrated Care Board (ICB) to determine the integrated approach that will best deliver holistic and streamlined care and prevention activities, including action on wider determinants in their communities.

4.2.2.2. To jointly assess the health and social care needs of the population with NHS commissioners and use the findings of a Barnet Joint Strategic Needs Assessment

(JSNA) to inform all relevant local strategies and policies across partnership including North Central London Integrated Care Strategy.

- 4.2.2.3. To agree a Health and Wellbeing Strategy (HWBS) for Barnet taking into account the findings of the JSNA and strategically oversee its implementation to ensure improvement of population outcomes and plans to tackle health inequalities. The Joint Health and Wellbeing Strategy (JHWS) should directly inform the development of joint commissioning arrangements in the local area, and the coordination of NHS and local authority commissioning, including Better Care Fund plans.
- 4.2.2.4. To work together to ensure the best fit between available resources to meet the health and social care needs of the whole population of Barnet, by both improving services for health and social care and helping people to move as close as possible to a state of complete physical, mental and social wellbeing. Specific resources to be overseen include money for social care being allocated through the NHS; dedicated public health budgets; the Better Care Fund; and Section 75 partnership agreements between the NHS and the Council.
- 4.2.2.5. To provide collective leadership and enable shared decision making, ownership and accountability
- 4.2.2.6. To promote partnership and, as appropriate, integration, across all necessary areas, including joined-up commissioning plans and joined-up approach to securing external funding across the NHS, social care, voluntary and community sector and public health.
- 4.2.2.7. To explore partnership work across North Central London where appropriate.
- 4.2.2.8. Specific responsibilities for:
  - Overseeing public health and promoting prevention agenda across the partnership
  - Developing further health and social care integration.
  - Receiving regular reports on the North Central London Integrated Care Board and their partner NHS trusts and NHS foundation trusts, including joint capital resource use plans, ICB Annual reports, Forward Plans and Performance Assessments

### **4.3 Membership**

#### **4.3.1 14 Members:**

- Chair, Vice Chair, Members and substitutes appointed by Council.
- Vice Chair is Clinical Lead (Barnet), North Central Integrated Care Board
- 3 Members of the Council
- Director of Public Health & Prevention
- Executive Director for Children & Family Services
- Executive Director Adults & Health
- Two North Central London Integrated Care Board Members: Clinical Lead for Barnet, North Central London Integrated Care Board Director of Integration, Barnet



Directorate, North Central London Integrated Care Board Barnet Clinical Commissioning Group - Board Members x3

- Primary Care Provider Representative x1
- Health Service Provider Representatives x2
- Barnet Healthwatch representative
- Barnet voluntary and community sector representative
- Independent Chair of the Adults Safeguarding Boards (Non-Voting Member)

4.3.2 Each member may nominate a substitute if they cannot attend. Requirement for proportionality is waived and voting rights allowed to members other than Members of the Council.

#### **4.4 Quorum**

4.4.1 The Quorum should consist of at least one Councillor, one officer from North Central London Integrated Care Board, and one Council officer.

### **5 Independent Panel**

#### **5.1 The Panel has the following duties:**

- 5.1.1 To consider reports recommending dismissal made by the Independent Investigator and the Employment Sub-Committee in accordance with the disciplinary procedure applying to the Head of Paid Service, Chief Finance Officer and Monitoring Officer;
- 5.1.2 To prepare a report to Council stating whether it agrees or disagrees with the recommendation to dismiss, including its reasons.

#### **5.2 Membership**

5.2.1 The Independent Panel shall consist of 2 independent persons appointed under s.27(7) of the Localism Act 2011.

#### **5.3 Quorum**

5.3.1 2 Independent persons

### **6 Licensing and General Purposes Committee**

6.1 Powers and the duties of the Licensing and General Purposes Committee are:

- 6.1.1 To consider all matters which under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (referred to in the Schedule 3A-1) to this document, are required not to be the responsibility of the Executive, save for those matters delegated to other Committees of the Council;
- 6.1.2 To carry out the functions under any relevant statutory provision within the meaning of Part I (Health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer;
- 6.1.3 Electoral Services including: elections and electoral registration performance; and polling places and polling district boundaries;

## **London Borough of Barnet - Constitution**

- 6.1.4 To determine all matters and duties on the authority imposed by legislation, regulations orders, codes, and similar provisions for:
  - 6.1.4.1 All activities under the Licensing/Gambling Acts
  - 6.1.4.2 Food safety and control.
  - 6.1.4.3 Animal health, welfare, safety and control.
  - 6.1.4.4 Gambling, betting, lotteries and related amusements
  - 6.1.4.5 Crime and disorder issues related to the above duties.
- 6.1.5 To keep under review the Officer Code of Conduct and, after consultation with unions representing staff, make recommendations to Council for amendment or addition.
- 6.1.6 Act as corporate trustee in respect of all assets held by the Council as charitable trustee. Make decisions in respect of those assets in the best interests of the relevant charity. Ensure strict compliance with the relevant Trust document.

### **6.2 Membership**

- 6.2.1 12 Members.

### **6.3 Quorum**

- 6.3.1 6 Members.

## **7 Licensing Sub-Committee**

- 7.1 The Licensing sub-committee has the following powers and duties:
  - 7.1.1 To determine applications and to make Orders in respect of:
    - 7.1.1.1 Registration of common land, town greens and variations of rights of common where objections have been received.
  - 7.1.2 To determine applications and to make Orders in respect of:
    - 7.1.2.1 Fees issues within the terms of reference of the Panel;
    - 7.1.2.2 Applications under Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended from time to time.
    - 7.1.2.3 Specific delegations under the Licensing Act 2003 as set out in the Licensing Policy, and the Statement of Principles under the Gambling Act 2005.
  - 7.1.3 In the case of alcohol control provisions in the Licensing Act 2003 to determine:
    - 7.1.3.1 Applications for personal licences where:
      - 7.1.3.1.1 Representations have been made, but remain unresolved.
      - 7.1.3.1.2 Applicants have relevant unspent convictions.
  - 7.1.4 Matters relating to the licensing, certification and authorisation at premises where:
    - 7.1.4.1 Representations have been made to an application, but remain unresolved.
    - 7.1.4.2 An application is made for the review of a premises licence or club premises certificate.

7.1.4.3 Matters of an exceptional nature that in a licensing officer's opinion justify consideration by the Licensing Panel.

7.1.5 [Appeals against decisions of the Licensing Panel must be made to the Magistrates' Court.]

## **7.2 Membership**

7.2.1 3 Members of the Licensing Committee (Political Balance requirements do not apply)

## **7.3 Quorum**

7.3.1 3 Members.

## **8 Employment Sub-Committee (a Sub-Committee of Licensing and General Purposes Committee)**

8.1 The Employment Sub-Committee has the following powers and duties:

8.1.1 to make recommendations to Council on the appointment of the Head of Paid Service

8.1.2 to appoint and dismiss Chief Officers (as defined in Article 7), excluding the dismissal of the Head of Paid Service, Chief Financial Officer and Monitoring Officer.

8.1.3 to make recommendations to Council on the dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer except in cases of redundancy, permanent ill health or the expiry of a fixed term contract;

8.1.4 to consider whether to impose a disciplinary sanction on a Chief Officer;

8.1.5 to consider matters and take action as required or permitted under the disciplinary procedure for the Head of Paid Service, Chief Finance Officer and Monitoring Officer including:

8.1.6 to suspend such an officer and to review such suspension

8.1.7 to appoint an independent investigator, agree terms of remuneration and working methods

8.1.8 to appoint external advisers

8.1.9 to consider the report of an independent investigator and in relation to that report:

8.1.9.1 to hold a hearing if appropriate to consider the report

8.1.10 to impose action short of dismissal on an officer

8.1.11 to decide to take no further action

8.1.12 to recommend informal resolution or other appropriate procedures

8.1.13 to refer back to the independent investigator for further investigation and report to propose dismissal of an officer to Council (in which case the matter should be referred to the Independent Panel prior to referral to Council)

- 8.1.14 to decide whether any objections made by a member of the Executive are material and well-founded and, if it decides that they are, to take appropriate action;
- 8.1.15 to consider grievances by the Head of Paid Service, and appeals by a Chief Officer against decisions made by the Head of Paid Service in relation to a grievance made by the officer;
- 8.1.16 Staff matters generally including council wide contractual changes to salaries and terms and conditions;
- 8.1.17 approving any changes to the chief officer structure;
- 8.1.18 pay and reward strategy;
- 8.1.19 HR policies which go over and above statutory requirements;
- 8.1.20 develop the annual pay policy statement for Full Council approval

8.2 When considering a report on staffing matters, a representative of the trade unions may submit a request to speak which requires the consent of the Chair, or be questioned by the Sub-Committee before a decision is made. Each representative will have up to 3 minutes to address the committee.

### **8.3 Membership**

8.3.1 3 Members including 1 Cabinet Member and Council will appoint 1 substitute Member from each group.

### **8.4 Quorum**

8.4.1 3 Members

## **9 Overview and Scrutiny Committee and Scrutiny Sub-Committees**

### **9.1 General Role**

9.2 Within their terms of reference, the Overview and Scrutiny Committee and Sub-Committees (other than the Call-In Sub-Committee) will have the following roles:

- 9.2.1 To consider any decisions of the West London Economic Prosperity Board which have been called in.
- 9.2.2 Policy Development and Review – by supporting the Council and Executive in developing the policy framework and budget for the Council, working with partner organisations on issues that may be outside the remit of the Council and reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions;
- 9.2.3 Service Reviews - by making reports and/or recommendations to the full Council, Executive, Portfolio Holders and any Joint or Area Committees on any of their functions;
- 9.2.4 Review of Issues of Concern to Local People by considering any matter affecting the area or its inhabitants and monitoring and scrutinising the activities of others;
- 9.2.5 Pre-Decision Scrutiny following consideration of the Key Decision Schedule (Forward Plan) and with the agreement of the Executive, to scrutinise key decisions prior to them being made;

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- 9.2.6 Performance Review - to receive selected monitoring reports (including KPI, financial performance and risk information) in relation to internally and externally delivered services.
- 9.2.7 Scrutiny of Partners – to review or scrutinise the performance of anybody carrying out any function on behalf of or in partnership with the Council.
- 9.2.8 The Call-In Sub-Committees may call in Executive decisions made but not yet implemented.

### 9.3 Specific Functions

#### 9.3.1 Policy development and review

#### 9.3.2 The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:

- 9.3.2.1 assist the Council, the Executive and Portfolio Holders in the development of the budget and policy framework by in-depth analysis of policy issues;
- 9.3.2.2 conduct research, community and other consultation in the analysis of policy issues and possible options;
- 9.3.2.3 consider mechanisms to encourage and enhance community participation in the development of policy options;
- 9.3.2.4 question Members of the Executive and/or Committees and chief officers about their views on issues and proposals affecting the area; and
- 9.3.2.5 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.

### 9.4 Scrutiny

#### 9.4.1 The Overview and Scrutiny Committee and Scrutiny Sub-Committee(s) may:

- 9.4.1.1 review and scrutinise the decisions made by, and performance of, the Executive, Portfolio Holders and/or Committees and Council officers both in relation to individual decisions and over longer periods of time;
- 9.4.1.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- 9.4.1.3 require the attendance of and question Members and chief officers about their decisions and performance, or in relation to particular decisions, initiatives or projects;
- 9.4.1.4 make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- 9.4.1.5 where partnership working permits, review and scrutinise the performance of other public services in the area, by inviting reports from partners and requesting that they address the Overview and Scrutiny Committee and Scrutiny Sub-Committees about their activities and performance;
- 9.4.1.6 question and gather evidence from any person (with their consent); and
- 9.4.1.7 carry out the scrutiny of matters relating to the Health and Social Care including those matters delegated to the Adults and Health Overview and Scrutiny Sub-Scrutiny Committee.

## **9.5 Annual Report**

- 9.5.1 The Overview and Scrutiny Committee will report annually to full Council on its workings and make recommendations for future work programmes and amend working methods, if appropriate.

## **10 Overview and Scrutiny Committee**

- 10.1 The Overview and Scrutiny Committee has the following power and duties:

- 10.1.1 To oversee an agreed work programme that can help secure service improvement through in-depth investigation of performance issues and the development of an effective strategy/policy framework for the council and partners;
- 10.1.2 To have general oversight of the council's scrutiny function;
- 10.1.3 To offer challenge and critical support to the Executive's policy development function and the long-term strategic direction of the borough;
- 10.1.4 To anticipate policy changes and determine their potential impact on residents and to recommend changes where these are appropriate;
- 10.1.5 To consider the council and partners' strategic approach to service delivery, using, where necessary, the power of overview and scrutiny committees to receive information from partner agencies and to require partner authorities to have regard to reports and recommendations from the Committee, as set out under Part Five of the Local Government and Public Involvement in Health Act 2007;
- 10.1.6 To undertake detailed investigation of service/financial performance in order to recommend policy changes to the Executive and to undertake investigations;
- 10.1.7 To report scrutiny findings and recommendations to the Executive within 8 weeks of being published or to its next meeting, whichever is the sooner, in accordance with the council's constitution;
- 10.1.8 To review or scrutinise decisions made, or other action taken, in connection with the discharge of responsible authorities of their crime and disorder functions in accordance with s.19 of the Police and Justice Act 2006.
- 10.1.9 To consider items included in the Forward Plan;
- 10.1.10 To consider Councillor Call for Action in terms of
- 10.1.10.1 Local Government Matters (9FC of the Local Government act 2000)
  - 10.1.10.2 Local Crime & Disorder Matters (Section 19, Police & Justice Act 2006)

## **10.2 Membership**

- 10.2.1 11 Members and Council will appoint 3 substitutes from each group.

## **10.3 Quorum**

- 10.3.1 5 Members.

## **11 Call-In Sub-Committee**

## **London Borough of Barnet - Constitution**

11.1 The Call-In Sub-Committee has the following powers and duties:

11.1.1 to examine decisions of the Executive which are taken but not implemented, and which are 'called in' in accordance with the Committee Procedure Rules;

11.1.2 to refer matters called in to the decision taker with reasons and recommendations for changes;

11.1.3 to refer Executive decisions to full Council if they consider they are contrary to the policy framework or contrary to or not wholly in accordance with the budget.

### **11.2 Membership**

11.2.1 3 Members (drawn from the Membership of the Overview and Scrutiny Committee and Sub-Committees). Council will appoint 1 substitute member from each group.

### **11.3 Quorum**

11.3.1 3 Members.

## **12 Adults and Health Overview and Scrutiny Sub-Committee**

12.1 The Adults and Health Overview and Scrutiny Sub-Committee shall perform the overview and scrutiny role and function in relation to:

12.1.1 All matters as they relate to Adults Social Care;

12.1.2 Reviewing and scrutinising, matters relating to the planning, provision and operation of health services in Barnet including inviting the relevant Chief Executive(s) of NHS organisations to account for the work of their organisation (s) as set out and required by the Health and Social Care Act 2001 and related primary and secondary legislation

12.1.3 Referring contested major service reconfigurations to the Secretary of State in accordance with the Health and Social Care Act 2001

12.1.4 Receiving and commenting upon any external inspections and reviews

12.2 Chair, Vice-Chair, Members and substitutes to be appointed by Council

12.3 The Health and Social Care Scrutiny Sub-Committee has the following powers and duties:

12.3.1 To be responsible in accordance with Regulation 28 of the Local Authority (Public Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 for scrutiny of the Council's health functions other than the power under Regulation 23(9) to make referrals to the Secretary of State.

12.3.2 To recommend to Council that a referral be made to the Secretary of State under Regulation 23(9) of the Local Authority (Public Health, Health and Wellbeing and Health Scrutiny) Regulations 2013.

12.3.3 To have specific responsibility for scrutiny of the following functions:

12.3.3.1 Health and social care infrastructure and service

12.3.3.2 NHS England, Clinical Commissioning Groups (CCGs) and the Health and Wellbeing Board

12.3.3.3 Public Health

12.3.3.4 Other policy proposals which may have an impact on health, public health, social care and wellbeing

12.3.3.5 Collaborative working with health agencies

12.3.3.6 Commissioning and contracting health services

12.3.4 To review the planning, provision and operation of Health services in Barnet and ensure compliance with Regulation 21(1) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 by inviting and taking account of information and reports from local health providers and other interested parties including the local HealthWatch.

12.3.5 Where a referral is made through the local HealthWatch arrangements, to comply with Regulation 21(3) of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 by ensuring that the referral is acknowledged within 20 days and that the referrer is informed of any action taken.

12.3.6 Where appropriate, to consider and make recommendations for response to NHS consultations on proposed substantial developments/variations in health services that would affect the people of London Borough of Barnet.

12.3.7 Where appropriate, to consider and make recommendations for response to consultations from local health trusts, Department of Health and Social Care.

12.4 Care Quality Commission and any organisation which provides health services outside the local authority's area to inhabitants within it.

12.5 To discharge the functions conferred by Section 244 (2ZE) of the National Health Service Act 2006 as amended and Regulation 21 of the Local Authority (Public Health, Health and Wellbeing Board and Health Scrutiny Regulations 2013) of reviewing and scrutinising, matters relating to the planning, provision and operation of health services in Barnet.

12.6 To respond to consultations from local health trusts, Department of Health and Social Care and any organisation which provides health services outside the local authority's area to inhabitants within it.

## **12.7 Membership**

12.7.1 8 Members. Council will appoint 2 substitute Members from each group.

## **12.8 Quorum**

12.8.1 6 members.

## **13 Children & Education Overview and Scrutiny Sub-Committee**

13.1 The Children and Education Overview and Scrutiny Sub-Committee shall perform the overview and scrutiny role and function in relation to:

13.1.1 All matters as that relate to Children's Social Care

13.1.2 All matters which relate to services pertaining to the education and well-being of children and young people including youth services

13.1.3 Receive and comment upon any external inspections and reviews.

## **13.2 Membership**

13.2.1 8 Members. Council will appoint 2 substitute Members from each group.

## **13.3 Quorum**



13.3.1 6 Members

## **14 Local Pension Board**

### **14.1 Role of the Board**

14.2 The Board is responsible for assisting with:

14.2.1 securing compliance with Local Government Pension Scheme (LGPS) Government regulations and any other legislation relating to the governance and administration of the LGPS or securing compliance with the requirements imposed in relation to the PGPS by the Pensions Regulator

14.2.2 such other matters that the LGPS regulations may specify Ensure the effective and efficient governance and administration of the LGPS for the LBB Pension Fund. The Local Pension Board maintain separate detailed terms of reference which are approved annually

### **14.3 Membership**

14.3.1 7 Members comprising: 3 employers side representatives (1 councillor\* and 2 employer representatives from an admitted body 3 employee side representatives (1 active member and 2 deferred member) 1 independent member/advisor \*Councillors appointed to the Board cannot also sit on the Pension Fund Committee.

### **14.4 Terms of Reference for the London Borough of Barnet Pension Board**

14.4.1 The purposed of this document is to set out the detailed Terms of Reference for the Local Pension Board of the London Borough of Barnet Pension Fund.

### **14.5 Role of the Local Pension Board**

14.5.1 The role of the local Pension Board, as defined by sections 5(1) and (2) of the Public Services Pension Act 2013 and regulation 106 of the Local Government Pension Scheme (LGPS) Governance Regulations 2013 is to assist with:

14.5.1.1 securing compliance with LGPS Government regulations and any other legislation relating to the governance and administration of the LGPS

14.5.1.2 securing compliance with the requirements imposed in relation to the PGPS by the Pensions Regulator.

14.5.1.3 such other matters as the LGPS regulations may specify

14.5.1.4 Ensure the effective and efficient governance and administration of the LGPS for the LBB Pension Fund.

14.5.1.5 ensure the Pension Fund's strategy and policy documents are in place and have been maintained in accordance with the LGPS Regulations. These documents are: the communications policy statement; funding strategy statement; governance compliance statement; statement of investment principles; and the Pension Fund annual report and accounts.

14.5.1.6 ensure the Pension Fund's internal Risk Register is in place and reviewed at least annually.

14.5.1.7 review the Pension Fund's performance in complying with the requirements of the LGPS Regulations and any other legislation relating to the governance and administration of the LGPS.

14.5.1.8 review the Pension Fund's performance in complying with the requirements of the Pension Regulator.

14.5.1.9 annually submit a proposed work plan for the forthcoming financial year to the Pension Fund Committee

14.5.1.10 carry out any other activities relating to the efficient governance and administration of the Pension Fund.

14.5.1.11 submit an annual budget to the Barnet Pension Fund Committee for approval.

14.5.2 The Local Pension Board does not replace the Administering Authority or make decisions or carry out duties which are the responsibility of the Administering Authority (refer to Compliance statement). The Pension Board is an advisory/scrutiny board and does not have decision making powers.

14.5.3 The Administering Authority retains ultimate responsibility for the administration and governance of the scheme. The role of the Board is to support the Administering Authority to fulfil that responsibility and secure compliance with any requirements imposed by the Pensions Regulator.

#### **14.6 Appointment of members of the Pension Board**

14.6.1 All Board members will be appointed by Full Council. It is a statutory requirement (section 248A of the 2004 Act) that the Administering Authority must be satisfied that every individual member of the Pension Board, is conversant with;

14.6.1.1 the legislation and associated guidance of the Local Government Pension Scheme

14.6.1.2 any document recording policy about the administration of the fund which is for the time being adopted by LBB Fund; and

14.6.1.3 has knowledge and understanding of;

- the law relating to pensions; and
- such other matters as may be prescribed.

#### **14.7 Rules governing Membership the Local Pension Board**

14.7.1 Local Pension Boards must include an equal number of employer and member representative with a minimum requirement of no fewer than four in total.

14.7.2 No officer or Councillor who would be responsible for the discharge of any functions under the Regulations (apart from any relating to LPB) may be a Member of the Local Pension Board of that authority.

14.7.3 Officer precluded would be any officer named in the scheme of delegation (e.g. Section 151 Officer and the head of investments). The guidance also states that consideration should be given as to whether officers of the Fund at a senior level, who are not named in the formal scheme of delegation, but who are responsible for discharging functions under the Regulations, should be precluded from being a member of the LPB.

#### **14.8 Composition of the Board**

14.8.1 The Board shall consist of 7 members constituted as follows:

14.8.1.1 3 employer representatives comprising:

- 1 councillors who are not members of the Pension Fund Committee

- employer representatives from an admitted or scheduled body (e.g. Re, CSG or Middlesex University)

14.8.1.2 3 scheme member representatives (employee side) comprising:

- 1 active members
- retired/deferred members

14.8.1.3 1 independent member/advisor

- Having no current employment, contractual, financial or other material interest in the Council or any scheme employer fund and not being a member of the LGPS Fund.

14.8.2 Independent and Scheme Members shall be appointed following a public recruitment, selection and interview process.

#### **14.9 Chairman and Vice-Chairman of the Board**

14.9.1 The Chairman and Vice-Chairman of the Board will be appointed by Members of the Board as the first business at their first meeting.

14.9.2 Should the elected Chairman be an Employer representative the Vice-Chairman must be a Scheme Member representative and vice versa.

#### **14.10 Substitute Members**

14.10.1 Each member will have a substitute to act as Board member in her/his absence, which will be recommended following a recruitment process consistent with their own appointment. These nominations will be approved as part of the overall appointments made by Full Council.

**NB:** The independent member shall not have a substitute.

#### **14.11 Quorum**

14.11.1 The Pension Board will be quorate when 3 voting Pension Board Members are in attendance.

#### **14.12 Period of Office**

14.12.1 Each Board member shall be appointed for a fixed period of four years, which appointment will normally occur at the Annual Council meeting.

#### **14.13 Termination of office**

14.13.1 Each Board member will be expected to attend all meeting and training sessions during the year. The membership of any member who fails to attend two or more meetings shall be reviewed and determined by other Board members in consultation with officers.

14.13.2 The removal of a member from office during her/his term of appointment can only be effected by the unanimous agreement of the other members present at the meeting.

14.13.3 In the absence of mitigating factors a Board member can be removed from the Board in the following circumstances (but not limited to):

14.13.3.1 A poor attendance record;

14.13.3.2 If a member does not undertake training as requested;

14.13.3.3 If a member is in breach of Council's Code of Conduct, Pension Board Code of Conduct and Conflict of Interest policy;

14.13.3.4 If a member has a conflict of interest that cannot be managed in accordance with the Board's conflicts policy.

14.13.4 Should the Council representative members, or the active scheme member(s) cease to be Council representatives or active scheme members, he/she will automatically cease to be a member of the Board and the Administering Authority will conduct a replacement process.

14.13.5 Any Board member choosing not to continue her/his role must provide a written notice of resignation from their post to the Governance Service. The notice period shall be two months. Once the written notice is received the Board shall be notified accordingly and arrangements shall be made for a replacement in line with the procedures for the original appointment.

#### **14.14 Voting Rights (this is dependent on makeup of the Board)**

14.14.1 All Board Members will have equal voting rights.

14.14.2 In the event of an equality of voted the Chairman will have the casting vote.

#### **14.15 Frequency of meeting**

14.15.1 The number of meetings a year should be in alignment with the number of the Pension Committee meetings year, or should be determined by the Board once it has agreed a workplan, with a minimum of two meetings annually.

#### **14.16 Notice of meeting and circulation of papers**

14.16.1 In accordance with the Access to Information Procedure Rules as set out in the Council's Constitution.

#### **14.17 Minutes**

14.17.1 In accordance with the Access to Information Procedure Rules as set out in the Council's Constitution.

#### **14.18 Accountability and reporting**

14.18.1 The Board is accountable solely to the Council for the effective operation of its functions.

14.18.2 The Board shall report to the Pensions Committee as often as the Board deems necessary and at least annually:

14.18.2.1 a summary of the work undertaken;

14.18.2.2 the work plan for the next 12 months;

14.18.2.3 details of training received and planned; and

14.18.2.4 details of any conflicts of interest and how they were dealt with.

14.18.2.5 On certain matters the board will report directly to Council;

14.18.3 The Board shall report annually to Full Council on its work.

14.18.4 It will also and as necessary from time to time report to Full Council any breach in compliance or other significant issues such as:

14.18.4.1 any areas of persistent non-compliance

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14.18.4.2 any area of non-compliance within the LGPS Regulations that have been reported to the Pension Fund Committee

14.18.4.3 areas raised to the Board to be investigated and how they were dealt with;

14.18.4.4 any risks or other areas of potential concern it wishes to raise;

### 14.19 Code of Conduct

14.19.1 All members of the Board are expected to act in accordance with Barnet Council's Code of Conduct for Councillors, and where applicable and the Pensions Regulator's Code of Practice.

### 14.20 Conflicts of interest

14.20.1 All members of the Board must declare on appointment and at any such time as their circumstances change any potential conflict of interest arising as a result of their position on the Board.

14.20.2 In accordance with s5(5) Public Service Pension Act 2013, a Board member must not have a financial or other interest that could prejudice him/her in carrying out his/her Board duties. This does not include a financial or other interest arising merely by virtue of being a member of the LGPS.

14.20.3 On appointment to the Board and following any subsequent declaration of potential conflict the conflict must be managed in line with the Council's Members Code of Conduct, the Local Government Pension Scheme (LGPS) Guidance on Conduct of Members and Conflicts of Interest, the requirements of the Public Service Pensions Act 2013 and the requirements of the Pensions Regulator's codes of practice on conflict of interest for Board members.

### 14.21 Knowledge and understanding including training

14.21.1 All new members must follow an induction training plan and all members of the Board will be expected to attend the training provided to ensure that they have the requisite knowledge and understanding to fulfil their role.

14.21.2 All members must be prepared to participate in such regular personal training needs analysis or other processes as are put in place to ensure that they maintain the required level of knowledge and understanding to carry out their role.

14.21.3 Failure to attend training or participate in the processes may lead to membership being reviewed.

### 14.22 Definitions

The following terms shall have the following meanings when used in this document:

<i>Administering Authority</i>	London Borough of Barnet
<i>Board or Pension Board</i>	The local Pension Board for the London Borough of Barnet, Administering Authority for the London Borough of Barnet Pension Fund as required under the Public Service Pensions Act 2013

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<i>Board Member</i>	A member of the Board including Employer representatives, Scheme Member representatives and an independent member
<i>Code of Practice</i>	The Pensions Regulator's [draft] Code of Practice no 14 entitled " <i>Governance and administration of public service pension schemes.</i> "
<i>Conflicts of Interest</i>	As defined in the Public Service Pensions Act 2013
<i>Employer Representative</i>	A person appointed to the Board for the purpose of representing employers for the Scheme
<i>Fund</i>	The London Borough of Barnet Pension Fund within the Scheme administered and maintained by the Scheme Employer
<i>Independent Member</i>	A Member of the Board who is neither an Employer Representative nor a Member Representative
<i>LGPS</i>	The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.
<i>Member Representative</i>	A person appointed to the Board for the purpose of representing members of the Scheme
<i>Scheme</i>	The Local Government Pension Scheme as defined under LGPS
<i>Scheme Manager</i>	London Borough of Barnet as administering authority of the London Borough of Barnet Pension Fund

## **15 Pension Fund Committee**

- 15.1 To have responsibility for all aspects of the governance, investment and administration of the LB Barnet Pension fund, including, but not limited to the following:
  - 15.1.1 To ensure compliance with all Local Government Pension Scheme statutes, regulations and best practice.
  - 15.1.2 To consider approval and act in accordance with statutory Pension Fund documents:
    - 15.1.2.1 Investment Strategy Statement
    - 15.1.2.2 Funding Strategy Statement
    - 15.1.2.3 Governance Policy Statement
    - 15.1.2.4 Pension Administration Strategy
    - 15.1.2.5 Communication Policy Statement.
  - 15.1.3 To review the above documents at least triennially, or more frequently if advised by the Chief Finance Officer of the need to do so.
  - 15.1.4 If required, to appoint and monitor:
    - 15.1.4.1 Investment advisors
    - 15.1.4.2 Pension Fund investment managers
    - 15.1.4.3 Pension Fund actuaries
    - 15.1.4.4 Performance management company
    - 15.1.4.5 Custodians
    - 15.1.4.6 Pension Administrator
  - 15.1.5 To review and challenge at least quarterly the performance of the Pension Fund's investments taking into consideration the benchmarks and targets set out in the Investment Strategy Statement and investment management contracts and to consider advice from the investment advisor(s).
  - 15.1.6 To monitor the administration of the Pension Fund.
  - 15.1.7 To approve admissions agreements with any admission body.
  - 15.1.8 To consider actuarial valuations and their impact on the Pension Fund.
  - 15.1.9 To review and consider approval of the Pension Fund's Annual Report and Statement of Accounts, together with recommendations from external and internal auditors.
  - 15.1.10 To consider recommendations from the Local Pension Board.
  - 15.1.11 To determine how the various administering authority
- 15.2 Membership**
- 15.3 6 Members. Council will appoint 2 substitute Members from each group.
- 15.4 The Committee will invite a recognised representative from the trades unions and a representative from Middlesex University (the largest scheduled / admitted body) to committee meetings These representatives are appointed to advise the committee on behalf of the interests they represent, but are not to have any voting rights.

15.4.1 Further invites to scheduled/admitted bodies to be decided by the chair of the committee.

**15.5 Quorum**

15.5.1 4 members

**16 Strategic Planning Committee**

16.1 To determine Applications for Planning Permission, including permissions in principle, made under the Town and Country Planning Act 1990 where the recommendation is for approval and the development:

16.1.1 is within the categories which must be referred to the Mayor of London under the London Mayor Order;

16.1.2 does not accord with the provisions of the Development Plan and, in the opinion of the Chief Planning Officer, constitutes a significant departure; or

16.1.3 is by or on behalf of the Council and, in the opinion of the relevant Chief Planning Officer], it is a significant development The confirmation of Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015.

16.2 The confirmation of Town and Village Green Registration Applications under the Commons Act 2006, including considering the recommendations of a non-statutory inquiry chaired by an independent person.

16.3 Designating neighbourhood areas and neighbourhood forums for the purposes of neighbourhood planning.

16.4 Consider Neighbourhood Development Orders and Community Right to Build Orders for recommendation to Full Council for adoption.

16.5 Recommending the creation of Conservation Areas to Full Council

16.6 Consider approving Article 4 Directions for consultation.

16.7 Take action under Part 8 of the Anti-Social Behaviour Act 2003 relating to high hedges.

16.8 Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.

16.9 Any other planning application or planning matter referred to this Committee by relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chair.

16.10 Reports on all matters reserved to the Committee shall be made direct to the Committee and not through a Planning Committee.

16.11 Any Planning Committee agenda item referred to this Committee for consideration and determination.

16.12 To consider additions, deletions or amendments to the entries in the Council's Brownfield Land Register, including any referrals from Planning Committees A and B, and conduct any other functions related to the Brownfield Land Register.

**16.13 Membership**

16.13.1 10 Members. Council will appoint 3 substitute Members from each group.



16.14 **Quorum**

16.14.1 6 members.

**17 Planning Committees A and B**

17.1 To determine the following application types, except where they are referable under the Constitution to the Strategic Planning Committee:

17.1.1 Applications for Planning Permission made under the Town and Country Planning Act 1990;

17.1.2 Applications for Listed Building Consent made under the Planning (Listed Buildings and Conservation Areas) Act 1990;

17.1.3 Applications for Consent to Display an Advertisement made under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;

17.1.4 Applications for permissions in principle made under the Town and Country Planning Act 1990 and any application to add, delete or amend any entries in the Council's Brownfield Land Register" after the words "To determine the following application types, except where they are referable under the Constitution to the Strategic Planning Committee" Where the recommendation is for:

17.1.4.1 approval and there is significant local public objection (defined as 5 or more objectors who have objected in writing in response to a planning application)

17.1.4.2 approval or refusal and there is a Councillor referral of an application which affects their Ward which has been 'called in' to committee identifying a planning consideration.

17.1.5 Any decision on an application that will result in the Council being liable for the payment of compensation, except where that compensation is as a result of an Article 4 Direction.

17.1.6 Any other application or planning matter referred to this Committee by the relevant Chief Planning Officer acting in his or her discretion, after consultation with the Chair.

17.1.7 Applications to undertake treatment to trees included within a Tree Preservation Order Applications for a Hedgerow removal notice made under the Hedgerow Regulations 1997.

17.1.8 Applications to demolish buildings on the Council's Local List.

**17.2 Membership**

17.2.1 6 Members per Committee. Council will appoint 2 substitute Members from each group.

**17.3 Quorum**

17.3.1 4 members.

**18 Area Committees**

18.1 **Area Committee North** (East Barnet, Barnet Vale, High Barnet, Underhill, Totteridge and Woodside, Mill Hill, Edgwarebury and Whetstone);

18.2 **Area Committee West** (Burnt Oak, Edgware, Colindale North, Colindale South, West Hendon, Hendon, Cricklewood and Childs Hill); and

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18.3 **Area Committee East** (Brunswick Park, Friern Barnet, Woodhouse, West Finchley, Finchley Church End, Golders Green, East Finchley and Garden Suburb)

18.4 In relation to the area covered:

18.4.1 Provide an opportunity for any resident to raise matters affecting the area (except matters relating to licensing and planning applications).

18.4.2 Responsibility for all area specific matters relating to the local environment including parking, road safety, transport, allotments, parks and trees.

18.4.3 Consider area specific matters as agreed with the Chair.

18.4.4 Consider matters relating to Town Centre regeneration and designating conservation areas.

18.4.5 Determine the allocation of Community Infrastructure Levy funding within the area subject to sufficient of the budget allocated to the committee being unspent.

### **18.5 Membership**

18.5.1 8 Members and substitutes appointed by Council.

18.5.2 Committee members must represent a ward in the Area Committee area. All members in the Area Committee area can act as substitutes in that area.

### **18.6 Quorum**

18.6.1 6 Members

## Part 2C - Joint Arrangements and Boards

### 1 Joint Committee of the Boroughs of Barnet, Brent, Ealing, Harrow and Hounslow (known as “West London Economic Prosperity Board”)

#### 1.1 Functions and Procedure Rules

##### 1.1.1 Purpose of the Joint Committee

The London Boroughs of Barnet, Brent, Ealing, Hammersmith & Fulham, Harrow and Hounslow (“the Participating Boroughs”) have established the Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000, and under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

1.1.2 The Joint Committee shall be known as ‘**West London Economic Prosperity Board**’.

1.1.3 The Joint Committee’s role and purpose on behalf of the Participating Boroughs relates to ensuring appropriate, effective and formal governance is in place for the purposes of delivering the West London Vision for Growth and advancing Participating Boroughs’ aspirations for greater economic prosperity in West London, including promoting “the Economic Prosperity Agenda”, in partnership with employers, representatives from regional and central government, and education and skills providers.

1.1.4 The purpose of the Joint Committee will be collaboration and mutual co-operation and the fact that some functions will be discharged jointly by way of the Joint Committee does not prohibit any of the Participating Boroughs from promoting economic wellbeing in their own areas independently from the Joint Committee.

1.1.5 The Joint Committee is not a self-standing legal entity but is part of its constituent authorities. Any legal commitment entered into pursuant of a decision of the Joint Committee must be made by all of the Participating Boroughs.

1.1.6 These Procedure Rules govern the conduct of meetings of the Joint Committee.

#### 1.2 Definitions

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

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

#### 1.3 Functions

1.3.1 The Joint Committee will discharge on behalf of the Participating Boroughs the functions listed below related to promoting economic prosperity in West London:

1.3.1.1 Making funding applications and/or bids to external bodies, in relation to economic prosperity for the benefit of the local government areas of the participating local authorities.

1.3.1.2 Providing direction to a nominated lead borough on the allocation of any such funding awards to appropriate projects for the benefit of the local government areas of the participating local authorities, including, where applicable,

approving the approach to the procurement to be undertaken by the lead borough.

- 1.3.1.3 Seeking to be the recipient of devolved powers and/or funding streams for the local government areas of the participating local authorities, which relate to the economic prosperity agenda.
- 1.3.1.4 Exercising any such powers and allocating any such funding.
- 1.3.1.5 Representing the participating local authorities in discussions and negotiations with regional bodies, national bodies and central government on matters relating to economic prosperity for the benefit of the local government areas of the participating authorities.
- 1.3.1.6 Representing the participating authorities in connection with the Greater London Authority, London Councils and the London Enterprise Panel, for the benefit of the local government areas of the participating authorities, in matters relating to the economic prosperity agenda.
- 1.3.1.7 Representing the participating local authorities in discussions and negotiations in relation to pan-London matters relating to economic prosperity.
- 1.3.1.8 Seeking to influence and align government investment in West London in order to boost economic growth within the local government areas of the participating authorities.
- 1.3.1.9 Agreeing and approving any additional governance structures as related to the Joint Committee, or any sub-committees formed by the Joint Committee.
- 1.3.1.10 Representing the participating local authorities in discussions and negotiations with the Secretary of State for Communities and Local Government to encourage legislative reform enabling Economic Prosperity Boards, as defined by the Local Democracy, Economic Development and Construction Act 2009 Act, to be established by groups of boroughs in London.
- 1.3.1.11 Inviting special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, higher education sector, schools, voluntary sector, and health sector to take an interest in, and/or seek to influence, the business of the committee including by attending meetings and commenting on proposals and documents.

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

#### **1.4 Membership and Quorum**

- 1.4.1 The membership will comprise of 6 members with each Participating Borough appointing one person to sit on the Joint Committee as a voting member.
- 1.4.2 Each Participating Borough will make a suitable appointment in accordance with its own constitutional requirements.
- 1.4.3 Where a Participating Borough operates executive arrangements, then the appointment of a voting member of the West London EPB will be by the leaders of the executive or by the executive. It is anticipated that, where practicable, the leader of each such executive will be appointed to the West London EPB.

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- 1.4.4 Where a Participating Borough does not operate executive arrangements, the appointment of a voting member of the West London EPB will be in accordance with the Borough's own procedures. It is envisaged that this will usually be one of its senior councillors.
- 1.4.5 In all cases, the appointed person must be an elected member of the council of the appointing Participating Borough. Appointments will be made for a maximum period not extending beyond each member's remaining term of office as a councillor, and their membership of the Joint Committee will automatically cease if they cease to be an elected member of the appointing Participating Borough.
- 1.4.6 Members of the Joint Committee are governed by the provisions of their own Council's Codes and Protocols including the Code of Conduct for Members and the rules on Disclosable Pecuniary Interests.
- 1.4.7 Each Participating Borough will utilise existing mechanisms for substitution as laid down in their own Standing Orders. Continuity of attendance is encouraged.
- 1.4.8 Where a Participating Borough wishes to withdraw from membership of the Joint Committee this must be indicated in writing to each of the committee members. A six month notice period must be provided.
- 1.4.9 When a new borough wishes to become a Participating Borough then this may be achieved if agreed by a unanimous vote of all the existing Participating Boroughs.
- 1.4.10 The quorum for the Joint Committee is three members. If the Joint Committee is not quorate it cannot transact any business. If there is no quorum at the time the meeting is due to begin, the start of the meeting will be delayed until a quorum is achieved. If no quorum is achieved after 30 minutes has elapsed, the clerk will advise those present that no business can be transacted and the meeting will be cancelled.

### **1.5 Chair and Vice-Chair**

- 1.5.1 The Chair of the Joint Committee will be appointed for 12 months, and will rotate amongst the Participating Boroughs.
- 1.5.2 Unless otherwise unanimously agreed by the Joint Committee, each Participating Borough's appointed person will serve as chair for 12 months at a time. Where the incumbent Chair ceases to be a member of the Joint Committee, the individual appointed by the relevant borough as a replacement will serve as Chair for the remainder of the 12 months as chair.
- 1.5.3 The Joint Committee will also appoint a Vice-Chair from within its membership on an annual basis to preside in the absence of the Chair. This appointment will also rotate in a similar manner to the Chair.
- 1.5.4 At its first meeting, the Committee will draw up the rotas for Chair and Vice-Chair respectively.
- 1.5.5 Where neither the Chair nor Vice-Chair are in attendance, the Joint Committee will appoint a Chair to preside over the meeting.
- 1.5.6 In the event of any disagreement as the meaning or application of these Rules, the decision of the Chair shall be final.

### **1.6 Sub-Committees**

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

### **1.7 Delegation to officers**

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

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

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

### **1.8 Administration**

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

### **1.9 Financial matters**

1.9.1 The Joint Committee will not have a pre-allocated budget.

1.9.2 When making a decision which has financial consequences, the Joint Committee will follow the relevant provisions of the Financial Procedure Rules of LB Ealing.

### **1.10 Agenda management**

1.10.1 Subject to 10.2, all prospective items of business for the Joint Committee shall be agreed by a meeting of the Chief Executives of the Participating Boroughs or their representatives.

1.10.2 It will be the responsibility of each report author to ensure that the impacts on all Participating Boroughs are fairly and accurately represented in the report. They may do this either by consulting with the monitoring officer and chief finance officer of each Participating Borough or by some other appropriate method.

1.10.3 In pursuance of their statutory duties, the monitoring officer and/or the chief financial officer of any of the Participating Boroughs may include an item for consideration on the agenda of a meeting of the Joint Committee, and may require that an extraordinary meeting be called to consider such items.

1.10.4 Each Participating Borough operating executive arrangements will be responsible for considering whether it is necessary [in order to comply with Access to Information legislation regarding the publication of agendas including Forward Plan requirements] to treat prospective decisions as 'key- decisions' and/or have them included in the Forward Plan. Each Participating Borough operating a committee system will apply its local non statutory procedures.

### **1.11 Meetings**

1.11.1 The Joint Committee will meet as required to fulfil its functions.

1.11.2 A programme of meetings at the start of each Municipal Year will be scheduled and included in the Calendar of Meetings for all Participating Boroughs.

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

### **1.12 Notice of meetings**

1.12.1 On behalf of the Joint Committee, a clerk will give notice to the public of the time and place of any meeting in accordance with the Access to Information requirements.

1.12.2 At least five clear working days in advance of a meeting a clerk to the Joint Committee will publish the agenda via the website of clerk's authority and provide the documentation and website link to the Participating Boroughs to enable the information to be published on each Participating Borough's website. "Five Clear Days" does not include weekends or national holidays and excludes both the day of the meeting and the day on which the meeting is called.

1.12.3 The clerk to the Joint Committee will arrange for the copying and distribution of papers to all Members of the Committee.

### **1.13 Public participation**

1.13.1 Unless considering information classified as 'exempt' or 'confidential' under Access to Information Legislation, all meetings of the Joint Committee shall be held in public.

1.13.2 Public representations and questions are permitted at meetings of the Joint Committee. Notification must be given in advance of the meeting indicating by 12 noon on the last working day before the meeting the matter to be raised and the agenda item to which it relates. Representatives will be provided with a maximum of 3 minutes to address the Joint Committee.

1.13.3 The maximum number of speakers allowed per agenda item is 6.

1.13.4 Where the number of public representations exceed the time / number allowed, a written response will be provided or the representation deferred to the next meeting of the Joint Committee if appropriate.

1.13.5 The Joint Committee may also invite special representatives of stakeholders such as business associations, government agencies such as DWP or Jobcentre Plus, the further education sector, voluntary sector, and health sector to take an interest in the business of the committee including by attending meetings and commenting on proposals and documents.

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

### **1.14 Member participation**

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

### **1.15 Business to be transacted**

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

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- 1.15.1.1 Minutes of the Last Meeting
- 1.15.1.2 Apologies for absence
- 1.15.1.3 Declarations of Interest
- 1.15.1.4 Provision for public participation
- 1.15.1.5 Substantive items for consideration
- 1.15.2 The Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements at his / her discretion. The Chair should inform the Members of the Joint Committee prior to allowing the consideration of urgent items.
- 1.15.3 An item of business may not be considered at a meeting unless:
- 1.15.4 A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting; or
- 1.15.5 By reason of special circumstances which shall be specified in the minutes the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.
- 1.15.6 "Special Circumstances" justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at a meeting allowing the proper time for inspection by the public as well as why the item or report could not have been available for inspection for five clear days before the meeting.
- 1.16 Extraordinary meetings**
- 1.16.1 Arrangements may be made following consultation with Chair of the Joint Committee to call an extraordinary meeting of the Joint Committee. The Chair should inform the appointed Members prior to taking a decision to convene an extraordinary meeting.
- 1.16.2 The business of an extraordinary meeting shall be only that specified on the agenda.
- 1.17 Cancellation of meetings**
- 1.17.1 Meetings of the Joint Committee may, after consultation with the Chair, be cancelled if there is insufficient business to transact or some other appropriate reason warranting cancellation. The date of meetings may be varied after consultation with the Chair and appointed members of the Joint Committee in the event that it is necessary for the efficient transaction of business.
- 1.18 Rules of debate**
- 1.18.1 The rules of debate in operation in the Chair's authority shall apply.
- 1.19 Request for determination of business**
- 1.19.1 Any member of the Joint Committee may request at any time that:
  - 1.19.1.1 The Joint Committee move to vote upon the current item of consideration.
  - 1.19.1.2 The item be deferred to the next meeting.
  - 1.19.1.3 The item be referred back to a meeting of the Chief Executives of the Participating Boroughs for further consideration.
  - 1.19.1.4 The meeting be adjourned.
- 1.19.2 The Joint Committee will then vote on the request.



## **1.20 Urgency procedure**

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

## **1.21 Voting**

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

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

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

1.21.4 Any two members can request that a recorded vote be taken.

1.21.5 Where, immediately after a vote is taken at a meeting, if any Member so requests, there shall be recorded in the minutes of the proceedings of that meeting whether the person cast they vote for or against the matter or whether they abstained from voting.

## **1.22 Minutes**

1.22.1 At the next suitable meeting of the Joint Committee, the Chair will move a motion that the minutes of the previous meeting be agreed as a correct record. The meeting may only consider the accuracy of the minutes and cannot change or vary decisions taken at a previous meeting as a matter arising out of the minutes.

1.22.2 Once agreed, the Chair will sign them.

1.22.3 There will be no item for the approval of minutes of an ordinary Joint Committee meeting on the agenda of an extraordinary meeting.

## **1.23 Exclusion of Public and Press**

1.23.1 Members of the public and press may only be excluded from a meeting of the Joint Committee either in accordance with the Access to Information requirements or in the event of disturbance.

1.23.2 A motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings. The motion shall specify by reference to Section 100(A) Local Government Act 1972 the reason for the exclusion in relation to each item of business for which it is proposed that the public be excluded. The public must be excluded from meetings whenever it is likely, in view of the nature of business to be transacted, or the nature of the proceedings that confidential information would be disclosed.

1.23.3 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think is necessary.

1.23.4 Background papers will be published as part of the Joint Committee agenda and be made available to the public via the website of each authority.

#### **1.24 Overview and Scrutiny**

1.24.1 Decisions of the Joint Committee which relate to the executive functions of a Participating Borough will be subject to scrutiny and 'call -in' arrangements (or such other arrangements equivalent to call-in that any Participating Borough operating a committee system may have) as would apply locally to a decision made by that Participating Borough acting alone.

1.24.2 No decision should be implemented until such time as the call-in period has expired across all of the Participating Boroughs.

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

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

#### **1.25 Access to minutes and papers after the meeting**

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

1.25.1.1 the minutes of the meeting and records of decisions taken, together with reasons, for all meetings of the Joint Committee, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

1.25.1.2 the agenda for the meeting; and

1.25.1.3 reports relating to items when the meeting was open to the public.

#### **1.26 Amendment of these Rules**

1.26.1 These Rules shall be agreed by the Joint Committee at its first meeting. Any amendments shall be made by the Joint Committee following consultation with the monitoring officers of the Participating Boroughs. Note that Rule 19.3 (Functions) may only be amended following a formal delegation from each of the Participating Boroughs.

#### **1.27 Background Papers**

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

1.27.1.1 disclose any facts or matters on which the report or an important part of it is based;

1.27.1.2 which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information and in respect of reports to the Joint Committee, the advice of a political assistant.

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

1.27.2.1 a copy of the list of background papers for the report

1.27.2.2 at least one copy of each of the documents included in that list

1.27.3 The Clerk will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **2 North Central London Joint Health Overview and Scrutiny Committee**

2.1 To engage with relevant NHS bodies on strategic area wide issues in respect of the co-ordination, commissioning and provision of NHS health services across the whole of the area of Barnet, Camden, Enfield, Haringey and Islington;

2.2 To respond, where appropriate, to any proposals for change to specialised NHS services that are commissioned on a cross borough basis and where there are comparatively small numbers of patients in each of the participating boroughs;

2.3 To respond to any formal consultations on proposals for substantial developments or variations in health services across affecting the areas of Barnet, Camden, Enfield, Haringey and Islington and to decide whether to use the power of referral to the Secretary of State for Health on behalf of Councils who have formally agreed to delegate this power to it when responding to formal consultations involving all the five boroughs participating in the JHOSC;

2.4 The joint committee will work independently of both the Cabinet and health overview and scrutiny committees (HOSCs) of its parent authorities, although evidence collected by individual HOSCs may be submitted as evidence to the joint committee and considered at its discretion;

2.5 The joint committee will seek to promote joint working where it may provide more effective use of health scrutiny and NHS resources and will endeavour to avoid duplicating the work of individual HOSCs. As part of this, the joint committee may establish sub and working groups as appropriate to consider issues of mutual concern provided that this does not duplicate work by individual HOSCs; and

2.6 The joint committee will aim to work together in a spirit of co-operation, striving to work to a consensual view to the benefit of local people.

## Terms of Reference of Boards

### 3 Local Strategic Partnership (Barnet Partnership Board)

3.1 A Local Strategic Partnership is an advisory committee which brings together the key public, private and voluntary organisations within the borough to identify and articulate the needs and aspirations of Barnet's local communities and to provide a forum to assist the Council by collectively reviewing and steering public resources, through identifying priorities in Sustainable Community Strategies

#### 3.2 Membership

3.2.1 Leader of the Council, Council representatives to be appointed by Annual Council Senior representatives from:

- 3.2.1.1 Related Argent
- 3.2.1.2 Barnet & Southgate College
- 3.2.1.3 Barnet Council
- 3.2.1.4 Brent Cross Shopping Centre
- 3.2.1.5 Barnet Together Alliance
- 3.2.1.6 Barnet Clinical Commissioning Group
- 3.2.1.7 Department for Work and Pensions
- 3.2.1.8 Federation of Small Business
- 3.2.1.9 London Fire Service
- 3.2.1.10 Middlesex University
- 3.2.1.11 Metropolitan Police
- 3.2.1.12 Saracens West London Alliance

### 4 Children's Partnership Board

4.1 Barnet's Children's Partnership Board brings together all services for children and young people in the borough, to focus on hearing the voice of children and young people and improving their outcomes.

4.2 Senior representatives from partner organisations make up the Children's Partnership Board which keeps strategic oversight of the Barnet Children and Young People's Partnership Plan. Each organisation has agreed to be responsible for implementing this plan which will be monitored by the Board.

4.3 The legal framework underpinning Barnet's Children's Partnership Board arrangements is the 'duty to cooperate' and improve the well-being of children across the Borough, set out in S10 of the Children Act 2004. The terms of reference and membership will be the subject of annual review to take account of local or national changes and developments.

4.4 General Responsibilities and Functions the Children's Partnership Board is accountable for the following:

- 4.4.1 Ensuring the voice of children and young people is heard in Barnet
- 4.4.2 Developing and delivering the Children & Young People's Plan.

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- 4.4.3 Ensuring that the collective resources of the partners are being used to the best effect to meet the priorities in the Children & Young People's Plan.
  - 4.4.4 Resolving issues that block progress against the priorities.
  - 4.4.5 Reviewing Plans and Strategies relating to Children and Young People in Barnet prior to consideration by executive groups (e.g. Children, Education & Safeguarding Committee, Health & Wellbeing Board, etc.)
  - 4.4.6 Working with the Voluntary Sector in a particular approach to enable the best outcomes for children and young people
- 4.5 This includes shared responsibility for:
- 4.5.1 Meeting the priorities in the Children & Young People's Plan
  - 4.5.2 Jointly developing, delivering and resourcing strategies and action plans necessary to meet the priorities
  - 4.5.3 Addressing barriers to meeting the priorities and to identifying future needs, including communication, information and data sharing
  - 4.5.4 Keeping Children's workforce informed and involved, providing clear direction, development and training as necessary
  - 4.5.5 Releasing staff to develop and attend network events
  - 4.5.6 Clarifying and simplifying governance structures and decision-making
  - 4.5.7 Ensuring that children, young people and families have a voice in decision making that affects them
  - 4.5.8 Monitoring performance towards agreed outcomes and taking remedial action where necessary.
  - 4.5.9 Building upon good practice and developing an evidence-based approach to what works.
- 4.6 The partnerships remit includes the needs of all children and young people in Barnet under the age of 19, young people up to the age of 25 leaving care and young people up to the age of 25 with disabilities and/or learning difficulties. These responsibilities include effective transition arrangements, where necessary.
- 4.7 Roles and Responsibilities of Board Members All members of the Board are required to agree to undertake the following:
- 4.7.1 Attendance at all Board meetings (or representation provided by as senior replacement).
  - 4.7.2 Members will be responsible for an effective two-way communication system whereby the decisions and aims of the Board are widely disseminated and relevant organisational issues from members' own agencies are communicated to the Board.
  - 4.7.3 Provide leadership on strategic issues to members of the Board
  - 4.7.4 Champion the objectives of the Children and Young People's Plan and ensure relevant activities within the plan are implemented by their organisation.
  - 4.7.5 Contribute to the development of a strategic three to five-year vision Meetings will be held quarterly and dates for each year will be set in advance.

## 4.8 Membership

4.8.1 The Board will be chaired by the Executive Director for Children's Services

4.8.2 Members are able to delegate a deputy of suitable authority if they are unable to attend, by agreement with the chair. Current partners and members are:

### 4.8.3 Barnet Council

- Lead Member for Children's Services;
- Executive Director for Children's Services;
- Assistant Director Education Strategy & Partnerships;
- Commissioning Strategy & Policy Advisor;
- Assistant Director Commissioning & Strategy;
- Voice of the Child Participation Officer;
- Housing Commissioning Lead;
- Commissioning Lead Growth & Development;
- Senior Communications & Campaigns Manager;
- Public Health Consultant;

### 4.8.4 North Central London Clinical Commissioning Group (NCL CCG)

- Director for Adults Joint Commissioning
- CYP Health Commissioning Children's Clinical Lead NHS;

4.8.5 Metropolitan Police – Inspector;

4.8.6 Schools –

- Three representative headteachers, one each from Barnet primary, secondary and special schools

4.8.7 Barnet Education & Learning Service – Chief Executive;

4.8.8 Voluntary Sector –

- Chief Executive, Inclusion Barnet;
- Chief Executive, Young Barnet Foundation;

4.8.9 Young Persons Representatives –

- Member of Barnet Youth Parliament 1;
- Member of Barnet Youth Parliament 2

4.8.10 Multi-Faith Representative - Chair, Barnet MultiFaith Forum;

4.8.11 Parent / Carer Group Representative – Chair of the Parent Carer Forum

## 4.9 Quorum

4.9.1 5 – must include the following:

- Chair (or deputy)
- At least one representative of the LB Barnet

- At least one representative NCL CCG
- At least one representative of Schools
- At least one member representing the voluntary sector

## **5 Safer Communities Partnership Board**

- 5.1 The Safer Communities Partnership Board (SCPB) is the inter-agency mechanism in Barnet to reduce crime and anti-social behaviour and reoffending and promote social cohesion. It acts as the Crime and Disorder Reduction Partnership as defined (and required) by the 1998 Crime and Disorder Act and subsequent amendments including the 2006 Police and Justice Act and the 2009 Policing and Crime Act.
- 5.2 The SCPB operates within the constitutional requirements of Barnet Council, the Metropolitan Police and other partner agencies, who ensure that the Board's approaches to policy formulation and resource allocation are consistent with those of the agencies concerned.
- 5.3 It is taking forward one of the objectives in the strategy to develop an Integrated Offender Management system that brings together the different agencies involved in managing the punishment and rehabilitation of offenders in a much more efficient and joined up way, reducing the risks of reoffending and ensuring far more offenders complete their drug rehabilitation successfully. Barnet Safer Communities Partnership is an unincorporated body and therefore it does not have a legal personality. Its members work collectively within their own individual legal frameworks.
- 5.4 Meetings will be quarterly and a quorum will comprise four members provided this consists of: The Chair (Barnet Councillor) and Vice Chair (Metropolitan Police) At least one other representative each of the Council and the Metropolitan Police.
- 5.5 Other current partners are:
- London Probation Trust
  - National Probation Service
  - London Fire Brigade
  - Barnet Clinical Commissioning Group
  - MOPAC (Mayor's Office Policing/Crime)
  - Barnet Safer Neighbourhood Board
  - Middlesex University
  - North West London Magistrates' Court
  - Inclusion Barnet
  - Victim Support, North London Division
  - Department for Work and Pensions
  - Voluntary Sector Representative (as invited by the Board)

## Part 2D

### Terms of Reference and Delegation of Duties to the Cabinet

#### Executive (Cabinet)

1. The Executive will exercise all of the local authority functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.
2. The Executive will have responsibility for approving plans which are not the responsibility of Council and any other non-statutory plans that, from time to time, may be considered their responsibility.
3. **The Cabinet is responsible for the following functions:**
  - 3.1 Development of proposals for the budget (including the capital and revenue budgets, the fixing of the Council Tax Base, and the level of Council Tax) and the financial strategy for the Council;
  - 3.2 Monitoring the implementation of the budget and financial strategy;
  - 3.3 Recommending major new policies (and amendments to existing policies) to the Council for approval as part of the Council's Policy Framework and implementing those approved by Council;
  - 3.4 Approving policies that are not part of the policy framework;
  - 3.5 Management of the Council's Capital Programme;
4. **All key decisions - namely:**
  - 4.1 an executive decision which is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
  - 4.2 an executive decision which is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the Borough;
  - 4.3 a decision is significant for the purposes of above if it involves expenditure or the making of savings of an amount in excess of £1m for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question;
  - 4.4 award of contracts over £500,000 and all matters reserved to the Executive under the Contract Procedure Rules this may be done via the Procurement Forward Plan;
  - 4.5 variations between budgets as required by the Financial Regulations;
  - 4.6 making all non-key decisions which are referred to the Executive by the relevant Portfolio Holder or Director;
  - 4.7 Determination of recommendations and references from the Council or any of its Committees or sub-committees and which the Cabinet considers are appropriate for collective decision;
  - 4.8 Approval of HRA Rents.



## Part 2E

### Cabinet Members' (Portfolio Holders) appointment and term of office

1. Other Executive Members shall be appointed to the Executive by the Leader and shall continue in their roles on the Executive until one of the following circumstances applies:
  - 1.1 in the case of the Deputy Leader; the end of the term of office of the Leader
  - 1.2 they resign from office; or
  - 1.3 they are no longer Councillors; or
  - 1.4 the Leader makes changes to the roles of Members of the Executive, or
  - 1.5 they are removed from office by the Leader.
2. **Vacancies in the Executive**
  - 2.1 If at any time a Member ceases to be a Member of the Executive, the responsibilities of that Member shall be carried out by the Executive collectively until such time as the Leader has appointed a replacement, or where appropriate, re-appointed the Member concerned.
  - 2.2 In the event that all Members of the Executive are removed or have been disqualified from office, the Head of Paid Service shall, in the interim, carry out the Executive functions.
3. **Temporary Absence of Leader or other Portfolio Holder**
  - 3.1 In the temporary absence of the Leader or other Portfolio Holder, decisions may be taken in accordance with the Scheme of delegation relating to Portfolio Holders set out in this Constitution.
4. **Special Provision to take urgent action in an election year**
  - 4.1 That following a Borough Election and until the day of the Annual Council Meeting the Leader or a Portfolio Holder will, if the political group to which they belong do not have a majority of members on the Council, consult and ensure consensus with the Leaders of one or more other groups that together form a majority of members on the Council;
  - 4.2 That following a Borough Election and until the day of the Annual Council Meeting, if the Leader is not re-elected as a Councillor, the powers of the Leader shall be exercised by the Head of Paid Services in consultation with all group Leaders.
5. **Proceedings of the Executive**
  - 5.1 Proceedings of the Executive will take place in accordance with the Executive Procedure Rules.

## Leader of the Council and Portfolio Holder Resources and Effective Council

### 6. The Leader of the Council shall have the following responsibilities:

#### 6.1 When present, to chair meetings of the Cabinet.

- Appoint and dismiss Portfolio Holders and the Deputy Leader.
- Appoint to and dismiss from any committees of the Cabinet.
- Determine from time to time the roles and areas of responsibility of Portfolio Holders.
- In the absence of a Portfolio Holder, or on written notice to that Portfolio Holder, to exercise any of that Portfolio Holder's functions themselves or arrange the discharge of those functions by another Portfolio Holder or a Chief Officer.
- Champion the Borough locally, nationally, and internationally and act as an advocate for its residents.
- Work with the Government to maximise opportunities for devolution, fairer funding and growth.
- Lead the development and implementation of the Council's Corporate Plan, Budget, Resident Experience and Procurement Strategy.
- Liaise with Government Departments, the Greater London Authority, London Councils, West London Alliance and other local, sub-regional and public bodies.
- Champion the Council's media relations and promote its brand and reputation.
- Ensure that the decisions and activities of the Council comply with the highest possible ethical standards and that all Members of the Council adhere to the Code of Conduct.
- Ensuring the effective management of the Council's property and community assets, with specific authority to acquire or dispose of land up to the key decision threshold (other than at less than best consideration).
- To be responsible for the financial strategy of the Council, including:
  - Developing and promoting its annual and long-term budgets and policy frameworks.
  - Ensuring financial controls and processes are effective, including procurement.
- Championing effective Risk Management and Business Continuity activity including Counter Fraud, Organisational Resilience Emergency Planning, Counter Terrorism Strategy (CONTEST).
- Leading on Council Transformation.
- Ensuring the Council has effective processes to monitor and manage the performance of its services.
- Leading on the Council's Digital Strategy.
- Leading on the Armed Forces Covenant.

## **7. Deputy Leader of the Council**

7.1 The Deputy Leader of the Council shall have overall responsibility for:

- Undertaking the responsibilities and delegated powers of the Leader of the Council, to the extent permitted by the Constitution, in the absence of the Leader.
- The chairing of meetings of the Executive in the absence of the Leader of the Council.

## **8. Portfolio holders generally**

- Portfolio holders may not make key decisions except for the leader when the leader is taking urgent decisions. Portfolio holders are expected to work together and where they work collaboratively in specific areas may draft internal protocols for doing so.

## **9. Portfolio Holder - Adult Social Care**

9.1 To be responsible for the development and strategic direction of the Council's Adult Social Care functions, for people who draw on care and support and carers, including:

- Championing the safeguarding of adults at risk older and disabled people and supporting them to have a good as quality of life as possible.
- Oversight and strategic direction on the integration of health and social care and partnerships between the NHS and the council.
- Oversight of commissioning of adult social care services and joint commissioning between the NHS and the council.
- Oversight and strategic direction to ensure that people who draw on care and support, and carers are involved and engaged; and that there are comprehensive involvement and co-production mechanisms in place.
- Overseeing compliance with both relevant statutory duties and performance targets.
- Working in partnership with people, carers, health bodies, other councils, the voluntary and community sector, and national, regional, and sub-regional bodies
- Supporting partnership development in relation to social care and integrated care and joint commissioning of services.

## **10. Portfolio Holder - Culture, Leisure, Arts and Sports**

10.1 To be responsible for the development and strategic direction of the following:

- Promoting Barnet as a destination, a Borough of Culture and leading on the 'Borough of Fun'.
- Cultural and Heritage activities in the Borough.
- Library Services, arts, museums, and tourism.
- Promotion of participation in physical activity and sports.
- Events and activities in, and use of parks and open spaces.
- Strategic direction of leisure services.

**11. Portfolio Holder - Community Wealth Building**

11.1 To be responsible for the strategic direction and the promotion of employment, skills, higher education, local business engagement and resilience of town centres including:

- Liaising with local and national government bodies and the business community and leading on inward investment.
- Leading on small business and social enterprise support and business engagement and relationships.
- Leading on the Council's approach to community wealth building, economic regeneration, an inclusive economy, and poverty reduction.
- Leading on the promotion of social value through procurement and the council's supply chain including working with all Portfolio Holders to drive value for Council priorities.
- Leading on the night-time economy.
- Ensuring residents have appropriate training and development opportunities and benefit from employment opportunities in the Borough
- Promotion of credit unions and projects to promote employment, benefit advice, skills, and wellbeing.
- Town Teams and engagement with them.

**12. Portfolio Holder - Community Safety and Residents Participation**

12.1 To be responsible for the strategic direction and promotion of community cohesion, tackling crime and enforcement in the borough including:

- Working with community groups, and statutory agencies to both maintain and improve community cohesion and community safety, reduce crime, mitigate its effect, and reduce fear of crime including hate crime.
- Oversight and strategic direction of Community Safety work and Environmental Crime enforcement activities, including the development of Community Safety Hubs and Community Safety Ward Walks.
- Support the delivery of high-quality CCTV services.
- Oversight and strategic direction on the work to end Violence Against Women and Girls (VAWG), Domestic Abuse and supporting survivors, Integrated Offender Management (IOM) and Serious Youth Violence.

12.2 To be responsible for the strategic direction of resident and community participation including:

- Development and implementation of the Community Participation Strategy.
- Ensuring residents and stakeholders are being appropriately involved and consulted on the Council's decisions, plans and activities.
- Leading on the delivery of the community events programme.

**13. Portfolio Holder - Family Friendly Barnet**

- 13.1 To fulfil the requirements in the Statutory guidance on the roles and responsibilities of the Director of Children's Services and the Lead Member for Children's Services and Section 19(2) (Lead Member for Children's Services) of the Children Act 2004.
- 13.2 To be responsible for the development and implementation of strategy for the delivery of high standards of service in Education and Social Care for children and young people including safeguarding and looked after children in the Borough including:
- To be responsible for the strategic oversight of education and social services for children and young people including education, schools, nurseries, safeguarding and child protection.
  - To be responsible for the strategic oversight of thoughtful commissioning of services and oversight of contractual arrangements; promoting close partnership working within the community, with Barnet schools, governing bodies, the voluntary sector and the Health Service.
  - To promote equality of access to education and to social services for all children and young people in Barnet.
  - To represent Barnet in pan London policy discussions with Portfolio Holders for Children's services on promoting improvements to services for children and young people across London.
  - To promote the children's voice and encourage consideration of children's views in development of wider council policies.
  - Sufficiency in provision of early years and school places.
  - Responsibility for the Councils Corporate Parenting duties to Children in Care and those who are Care Experienced.
  - Quality and standards in early years and schools provision.
  - Lead on the Councils responsibilities under the UN Convention on the Rights of the Child.
  - Working with all other Portfolio Holders to promote good outcomes for Children and Young People.

**14. Portfolio Holder - Health and Wellbeing**

- 14.1 To be responsible for the development and strategic direction of the Council's Public Health functions and related environmental factors which impact on health outcomes including:
- Overseeing compliance with both relevant statutory duties and performance targets within Public Health.
  - Developing policies to tackle health inequalities.
  - Lead on the Council's response to major public health incidents, including future pandemics and Covid 19 recovery.
  - Leading on the promotion of good mental health and wellbeing across the Borough.
  - Leading on the Combatting Drugs Partnership.

**15. Portfolio Holder - Environment and Climate Change**

15.1 To be responsible for the development and strategic direction of the Council's environment services, addressing climate change and the journey to Net Zero, including:

- Leading on the Council's ambition to be a Net Zero Council by 2030, and a Net Zero Borough by 2042, including working with all Portfolio Holders to deliver this.
- Strategies to reduce, re-use and re-cycle waste.
- Street scene services including street cleaning and the council's waste collection services.
- Leading on the Sustainability Strategy, biodiversity, energy, fuel poverty, water efficiency and improvements to waterways.
- Road safety, major traffic infrastructure, transportation and active travel.
- Protecting and enhancing Barnet's green spaces, including protection of the greenbelt.
- Environment Health services.

**16. Portfolio Holder - Homes and Regeneration**

16.1 To be responsible for the development and strategic direction of the Council's housing services and regeneration programmes including:

- To provide new Council homes and develop partnerships with other housing providers for affordable homes.
- To adequately fund the repair and improvement of Council homes ensuring the viability and cost-effectiveness of the Housing Revenue Account.
- To engage and listen to council tenants and leaseholders to enhance and improve housing services.
- To develop policies to prevent homelessness and meet the needs of those at risk of or suffering homelessness.
- To lead on the strategic relationship with Barnet Homes and The Barnet Group.
- To lead on the adoption of the Local Plan and other planning policy documents
- To support the delivery of high-quality new housing of other tenures to meet local need in accordance with the Local Plan and promote development of specialist housing to meet particular needs.
- To promote quality in private sector housing, including through ensuring appropriate regulation of the private rented housing sector, and promoting private tenants' rights.
- To oversee implementation of the councils regeneration programmes in compliance with the Local Plan, including promoting the development of a Regional Park, working with other relevant Portfolio holders.

**17. Portfolio Holder - Equalities and the Voluntary and Community Sector**

17.1 To be responsible for the development and strategic direction of the Council's approach to Equalities, Diversity and Inclusion (EDI), and to be responsible for the strategic relationship with the Voluntary, Community, and Faith Sector, including:

- Leading the Council's Strategy to address all forms of inequality and compliance with the Equality Act 2010.
- Championing the Council's commitment to social inclusion and fairness, including representation on appropriate partnerships, boards and groups.
- Supporting the development of the Council's equalities framework and monitor progress to drive improvement and ensuring the Council promotes equality of opportunity in all its work.
- Leading on the Borough of Sanctuary.
- Ensuring an effective working relationship with voluntary, community, and faith sector organisations.

## Part 2F

### Delegation to Officers

#### Head of Paid Service, Chief Officers and Statutory Officers

##### 1. Introduction

- 1.1 This Scheme sets out those delegations made to the Head of Paid Service and Chief Officers whether by the Council or by Cabinet (the Executive). The Scheme also sets out the powers of the Statutory Officers of the Council.
- 1.2 The Head of Paid Service, Chief Officers and Statutory Officers may (where statute allows this) further delegate responsibility for matters to officers within their departments. These delegations must be in writing.
- 1.3 The source of each delegation is specified in the Scheme.
- 1.4 Council, Cabinet or Committees may reserve to themselves decisions that have been delegated to officers by giving notice to the relevant Chief Officer or the Head of Paid Service.
- 1.5 When any new power or duty is given to the Council and it is unclear where responsibility for that function lies, the exercise of that power or duty will be undertaken by the Head of Paid Service or relevant Chief Officer.

##### 2. Principles of Delegation

- 2.1 Officers may exercise delegated powers provided that the matter:
  - 2.1.1.1. is covered by an approved policy
  - 2.1.1.2. there are no unusual features
  - 2.1.1.3. there are no political, controversial or other significant issues, otherwise the matter should be referred to Members to determine.
- 2.2 In exercising delegated powers officers must:
  - 2.2.1 Incur expenditure within approved estimates/limits.
  - 2.2.2 Comply with the Council's Procedure Rules and Financial Regulations in force at the time.
  - 2.2.3 Comply with any policy, plan or direction of the Council, Cabinet or Committee.
  - 2.2.4 Consult and undertake an equality impact assessment where appropriate, and/or agree with other relevant officers.
  - 2.2.5 Consult or refer the matter to the Head of Paid Service in appropriate cases.
  - 2.2.6 Keep appropriate records and registers of decisions and report to Council, Cabinet or Committee if required. Such decisions are to be recorded in the form of a Delegated Powers Report or Officer Decision Report.
  - 2.2.7 In using delegated powers, officers are accountable to the Council or Cabinet or the Committee from which those delegated powers derive.
  - 2.2.8 Acts of officers done under delegated powers are deemed to be acts of the Council.
  - 2.2.9 Delegations exercised in relation to contracts must follow the Contract Procedure Rules in force at the time.



2.2.10 Delegations exercised in relation to land and property transactions must follow the Land and Property Transactions Authorisation Limits in force at the time.

### **3. Non Executive Decision Procedure (Council Side Officer Decisions)**

3.1 The Head of Paid Service, Chief Officers and Statutory Officers may be specifically authorised to take decisions on behalf of the Council or a Committee in cases of urgency or in relation to minor matters. In doing so the procedure set out below must be followed:

### **4. Urgent Non-Executive Decisions and Minor Matters**

#### **4.1 Matters which are the responsibility of Full Council**

Subject to consultation with the Leader of the Council (or in his/her absence the Deputy Leader) and the leaders of the political groups or their nominees, the Head of Paid Service, Chief Officers and Statutory Officers shall have the power to act on behalf of the Council in cases of urgency and on minor matters, where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council. In the event of disagreement between the Members consulted, the matter must be referred to the Council. The safeguards in below must be followed.

### **5. Matters which are the responsibility of Committees of the Council**

5.1 Subject to consultation with the Chair of the relevant committee and the nominated members of the political groups or their nominees, the Head of Paid Service, Chief Officers and Statutory Officers shall have the power to act on behalf of the Council in cases of urgency and on minor matters, where the urgent matter is of such a nature that it may be against the Council's interest to delay and where it is not practicable to obtain the approval of the Council Committee. In the event of disagreement between the Members consulted, the matter shall be referred to the Head of Paid Service who may take the decision after consultation with the Leaders of all political groups or their nominees, and if appropriate, with the statutory officers. The safeguards set out below must be followed.

### **6. Safeguards**

6.1. The procedure must only be used when considered essential to achieving the efficient administration of the service and for urgent matters consideration must be given to whether the matter can wait until the next scheduled meeting or whether the calling of a special meeting can be justified.

6.2. The information in the report form must be given the same care and attention as a report to the committee or to Council. Councillors must be given all the information they need in order to fully consider the matter.

6.3. All decisions taken by officers under this delegated power must be reported for information to the next meeting of the appropriate committee or Council.

6.4. For minor matters the subject matter:

6.4.1. should not give rise to implication of a policy or resource nature for the authority;

6.4.2. the cost of implementing the decision must not exceed agreed budgets; and

6.4.3. the decision should not conflict with any plan or strategy agreed by the Council.

### **7. Urgent Executive Decisions and Minor Matters Procedure**

#### **7.1. Matters, which are the responsibility of the Cabinet**

All executive decisions shall be referred to the relevant Portfolio Holder or the Cabinet as appropriate for decision. There is an urgency procedure for the Leader to take urgent action as detailed in the Appendix to the Executive Procedure Rules.

**8. General**

- 8.1. Where appropriate the Head of Paid Service may exercise any function delegated to any other officer, e.g in case of absence.
- 8.2. Chief Officers may exercise any function delegated to any other officer within their directorate.
- 8.3. The Head of Paid Service and Chief Officers have the general powers in addition to their schemes of delegation which can be located on the Council’s website:
- 8.4. To manage and promote the services and functions for which they are responsible. This includes:

Delegated Powers	Source of Delegated Powers
<p><b>General</b></p> <p>1. Taking and implementing any decision required for operational effectiveness.</p>	Executive and Council
<p>2. Responding to consultation documents, which are considered appropriate to be dealt with at officer level.</p> <p><b>The Leader or appropriate Portfolio Holder will deal with all other consultation responses</b></p>	Executive
<p>3. Bid for external resources for services within their remit.</p>	Executive
<p>4. Liaise and develop partnerships with external agencies, Government departments and stakeholder organisations.</p>	Executive
<p><b>Financial</b></p> <p>5. Financial delegations are set out in the Financial Regulations</p>	Council
<p><b>Contracts</b></p> <p>6. Contractual Delegations are set out in the Contract Procedure Rules.</p>	Executive
<p><b>Human Resources</b></p> <p>7. To appoint, suspend and dismiss staff. (except where there is a requirement for this to be done by Employment Sub-Committee or Council)</p>	Council

Delegated Powers	Source of Delegated Powers
8. To take any action under the Council’s employment policies and procedures including the Humans Resources Regulations.	Council
9. To re-organise staff within their directorates subject to: <ul style="list-style-type: none"> <li>• Any requirement for approval by the Employment Sub-Committee</li> <li>• Consultation with Head of Paid Service and Head of HR</li> <li>• Where appropriate, consultation with staff and/or their representatives.</li> <li>• Compliance with any relevant Council policies or procedures.</li> <li>• No service policy implications.</li> <li>• No expenditure in excess of budget.</li> <li>• No growth in net expenditure beyond the current year.</li> </ul>	Council
10.To authorise absence leave and payments, including overtime, expenses, loans, and ex gratia payments subject to approval as set out in the Financial Regulations and the Council’s Employment Policies.	Executive
11.To authorise training and development and associated matters.	Executive

Individual Delegations	Source of Individual Delegated Powers
1. Chief Executive (Head of Paid Service) (In the absence of this post holder these will be delegated to the Deputy Chief Executive)  2. To take any action necessary to ensure the effective and efficient management and operations of the Council. If following a Borough Election the Leader has not been elected as a councillor or, if re-elected, the political party of which they are a member does not have a majority on the Council, then until a Leader is appointed, the Head of Paid Service (in consultation with all Group Leaders) shall be 1. Authorised to take and implement any decision required for	Executive and Council

Individual Delegations	Source of Individual Delegated Powers
operational effectiveness of the Council but excepting any such responsibilities, duties and powers specifically reserved to any other person or body.	
3. To promote the importance of the ethical agenda and to sustain the highest standards of ethical behaviour on the part of the Council's officers in accordance with the Code of Conduct for Council Employees.	Council
4. To make any decision delegated to another officer (except where restricted by law)	Executive and Council
5. Act in minor or urgent matters where to delay for a Council meeting would not, in his/her opinion, be in the Council's interest, subject to written approval of the Leaders of the political groups.	Council
6. Act in minor or urgent matters where to delay for a Council committee meeting would not in his/her opinion, be in the Council's interests, subject to consultation with the political groups or their nominees.	Council
7. Following consultation with the Leader and Leader of the Opposition, to suspend the Monitoring Officer or Chief Finance Officer in cases of emergency as defined in the JNC procedure.	Council
8. Following consultation with the Leader and Leader of the Opposition, to refer matters of discipline (as defined in the disciplinary procedure) in respect of the Monitoring Officer or Chief Finance Officer to the Employment Sub-Committee.	Council
9. To make payments or provide other benefits in cases of maladministration etc in accordance with s92 of the Local Government Act 2000.	Council
10. To take any action necessary to ensure the effective development and implementation of the Council's key strategies and services.	Executive and Council
11. To undertake any action necessary to ensure the effective development and	Executive and Council

Individual Delegations	Source of Individual Delegated Powers
implementation of the Council's Corporate Governance Framework.	
12. Representing the Council on partnership or external bodies as required (by Statute or Council) except for those appointed to by Full Council.	Executive and Council

9. **The powers would be used only on production of a Delegated Powers Report, including financial and legal implications. All decisions taken using the powers in 4 and 5 above must be reported to the next meeting of the relevant committee or Council.**

Individual Delegations	Source of Individual Delegated Powers
<p><b>Chief Officers</b></p> <ol style="list-style-type: none"> <li>1. Chief Executive</li> <li>2. Deputy Chief Executive</li> <li>3. Executive Director Children and Young People</li> <li>4. Executive Director Adult, Communities and Health</li> <li>5. Executive Director of Strategy and Resources</li> <li>6. Executive Director of Assurance</li> <li>7. Director of Public Health and Prevention</li> <li>8. Director of Transformation</li> </ol> <p>All have the following delegated powers and duties</p>	
1. To take any action necessary to ensure the effective and efficient management of their directorate	Council and Executive
2. To act in minor or urgent matters where to delay to a Council Committee meeting would not, in his/her opinion, be in the Council's interest, subject to consultation with the Chief Executive and Leaders of the political groups or their nominees.	Council
3. To take any action necessary to ensure the effective development and implementation of the Council's key strategies and services relating to their directorate.	Council and Executive
4. To undertake any action necessary to ensure the effective development and implementation of the Council's Corporate Governance Framework.	Council and Executive

**10. Statutory Officers**

<b>Chief Finance Officer (Section 151 Officer)</b>	<b>Statutory Source of Function</b>
1. Oversight of proper administration of financial affairs.	Section 151 Local Government Act 1972
2. Duty to nominate a member of his/her staff as chief financial officer (if unable to act owing to absence or illness).	Section 114 Local Government Finance Act 1988
3. Duty to report on a Council decision or likely decision which would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account.	Section 114 Local Government Finance Act 1988
4. Duty to report if the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.	Section 114 Local Government Finance Act 1988
5. Duty to report on an Executive decision or likely decision which would lead to the authority incurring unlawful expenditure or would cause a loss or deficiency to the authority or entry of an unlawful item of account.	Section 114A Local Government Finance Act 1988
6. Duty to report on the robustness of the authority's budget calculations.	Section 25 Local Government Act 2003
7. Duty to report on the adequacy of the authority's proposed financial reserves.	Section 25 Local Government Act 2003
8. Duty to report on previous years' financial reserves if it appears that controlled reserves is or likely to be inadequate, including recommendations for appropriate actions to rectify.	Section 27 Local Government Act 2003
9. Duty to assist the Council in carrying out regular budget monitoring.	Section 28 Local Government Act 2003

<b>Director of Children’s Services</b>	<b>Statutory Source of Function</b>
1. Responsible for functions conferred on or exercisable by the authority in their capacity as a local education authority.	Section 18 Children Act 2004
2. Responsible for functions conferred on or exercisable by the authority, which are social services functions, so far as those functions relate to children.	Section 18 Children Act 2004
3. Responsible for functions under section 23C to 24D of the Children Act 1989, relating to looked after children.	Section 18 Children Act 2004
4. Improving well-being of children in the authority’s area.	Sections 10 and 18 Children Act 2004
5. Safeguarding and promoting the welfare of children.	Sections 11 and 18 Children Act 2004
6. Responsible for any function under section 75 of the National Health Service Act 2006 on behalf of an NHS body so far as those relate to children.	Section 18 Children Act 2004
7. Responsible for functions conferred on the authority by Part 1 of the Childcare Act 2006.	Section 18 Children Act 2004
8. Responsible for functions conferred on the authority under section 2 of the Childcare Act 2016.	Section 18 Children Act 2004
9. Responsible for any additional functions as the authority consider appropriate	Section 18 Children Act 2004

<b>Director of Adult Social Services</b>	<b>Statutory Source of Function</b>
1. Responsibility for all social services functions (other than those for which the Director of Children’s Services is responsible under section 18 of the Children Act 2004).	Section. [1A] and Schedule 1 of the Local Authority Social Services Act 1970

<b>Director of Public Health</b>	<b>Statutory Source of Function</b>
1. Responsibility for the functions under S2B National Health Service Act – taking steps to improve Health.	Ss 2B and 73A National Health Service Act 2006.
2. Responsibility for the functions under S111 National Health Service Act – dental public health.	Ss 111 and 73A National Health Service Act 2006.

3. Responsibility for the functions under S249 National Health Service Act – joint working in respect of prison health.	Ss249 and 73A National Health Service Act 2006.
4. Responsibility for compliance with regulations made under s6C(1) or (3) National Health Service Act 2006 –requirement to undertake functions of the Secretary of State	Ss 6C(1) and (3) National Health Service Act 2006
5. Responsibility for the functions under S7A National Health Service Act – arrangements to undertake Secretary of State’s functions.	Ss 7A and 73A National Health Service Act 2006.
6. Responsibility for the exercise by the authority of its functions under Schedule 1 National Health Service Act 2006 - inspection of school pupils.	Schedule 1 National Health Service Act 2006
7. Responsibility for any functions that relate to planning for or responding to emergencies involving a risk to public health.	S73A National Health Service Act 2006.
8. Responsibility for the functions under S325 Criminal Justice Act 2003 – arrangements for assessing risk of certain offenders.	S325 Criminal Justice Act 2003
9. To prepare an annual report on the health of the people in Barnet	S73B(5) National Health Service Act 2006
10. To be a member of the Health and Wellbeing Board	S194(2)(d) Health and Social Care Act 2012
11. Responsibility for the exercise of all other Local Authority’s public health functions specified in S73A(1) National Health Service Act 2006.	S73A National Health Service Act 2006.
Statutory Health and Safety Advice 12. Assist the employer in undertaking the measures needed to take to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions and by Part II of the Fire Precautions (Workplace) Regulations 1997.	Regulation 7(1) - The Management of Health and Safety at Work Regulations 1999

Scrutiny Officer	Statutory Source of Functions
1. To promote the role of the Overview and Scrutiny Committee and its sub-committees, to provide support and guidance to members and officers of the Committee and its sub-committees and to provide support and guidance to members and officers in relation to the functions of the Committee and its sub-committees.	Section 9FB of the Local Government Act 2000.



Registrar for Births, Deaths and Marriages 1. To act as the proper officer for the purposes of Births, Deaths and Marriages.	Council
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<b>Monitoring Officer</b>	<b>Statutory Source of Function</b>
1. Report on contravention or likely contravention of any enactment or rule of law.	Section 5 & 5A Local Government and Housing Act 1989.
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3. Appointment of Deputy Monitoring Officer.	Section 5 Local Government and Housing Act 1989.
4. Report on resources needed to undertake Monitoring Officer functions.	Section 5 Local Government and Housing Act 1989.
5. Establish and maintain registers of member's interests and gifts and hospitality.	Sections 29 and 30 Localism Act 2011 The Relevant authorities (Disclosable Pecuniary Interests) Regulations 2012
6. Advice to Members on interpretation of the Members Code of Conduct.	Members' Code of Conduct
7. Key role in framework for local determination of complaints namely to:  7.1 Decide, in consultation with an Independent Person, whether to dismiss complaints that are outside the Members Code of Conduct, are considered to be frivolous or vexatious, are about events which took place more than 6 months prior to the receipt of the complaint by the Monitoring Officer, unless there are exceptional circumstances and/or do not merit further investigation on public interest grounds.  7.2 To follow the procedure for the investigation of complaints against Members.  7.3 Advise Members, officers and the public on the operation of the Code and how alleged breaches should be investigated.	Sections 28 – 34 Localism Act 2011

8. Advice to Members on Compensation or remedy for maladministration.	Section 92 Local Government Act 2000.
9. Advice on vires issues, law, maladministration, financial impropriety, probity, policy framework and budget issues to all members.	Guidance.
10. Following consultation with the Leader and Leader of the Opposition, to suspend the Head of Paid Service in cases of emergency as defined in the JNC procedure.	Council
11. Following consultation with the Leader and Leader of the Opposition, refer matters of discipline (as defined in the disciplinary procedure) in respect of the Head of Paid Service to the Employment Sub-Committee.	Council
12. To make minor and administrative changes to the Constitution in order to ensure the aims and principles of the Constitution are given full effect and to make amendments in accordance with changes to the law. All such changes must be reported to the Council as soon as possible after the change is made.	Section 9P Local Government Act 2000
13. To undertake any legal action necessary to ensure the effective development and implementation of the Council's Corporate Governance Framework.	
14. To authorise the affixing of the Council's seal and execution of deeds as detailed in the section below.	
15. To keep the Common Seal of the Council in a safe place.	
16. To witness, or authorise others to witness, the affixing of the Common Seal to those documents which, in his or her opinion, should be sealed.	

## 11. Legal Proceedings

- 11.1 The Executive Director Assurance is authorised to institute, defend or participate in any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.
- 11.2 The Council operates a joint legal service with Harrow Council. It has resolved to delegate the exercise of its legal functions to the London Borough of Harrow under Section 101 of the Local Government Act 1972 and of the Local Government (Arrangement for the Discharge of Functions) (England) Regulations 2000.

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

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

11.4 To delegate to any officer authority to institute defend or participate in any legal proceedings, in any Court or Tribunal and in any case where such action is necessary to give effect to decisions of the Council, or in any case where they consider that such action is necessary to protect the Council's interests. To authorise officers to appear in Court on the Council's behalf.

**12. Authentication of Documents**

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

12.2 Any contract with a value exceeding £213,477 and made under the Common Seal of the Council shall be attested by at least two duly authorised officers in accordance with paragraph 11.5.

**13. Sealing and Execution of Documents**

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

13.1.1 To affix the Common Seal and execute under Seal any deed or document subject to at least two of the above named Officers of the Council (or their duly authorised deputies) being present and being signatories.

13.1.2 The Officers of the Council referred to above (or their duly authorised deputies) shall have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.

**14. Officer Interests**

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

**15. Record of Sealing of Documents**

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

**16. The Council will designate officers as required including to the following statutory posts:**

<b>Statutory Post</b>	<b>Designated Officer</b>
Electoral Registration Officer	Chief Executive Officer
Returning Officer	Chief Executive Officer
Registrar for Births Deaths and Marriages	Registrar of Births and Deaths Superintendent Registrar
Proper Officer for births, deaths and marriages	Assistant Director, Resident Experience and Digital
Data Protection Officer	Service Manager - Records and Information management
Local Authority Designated Officer (LADO)	LADO Allegations Manager
Chief Internal Auditor	Head of Internal Audit
Virtual Headteacher	Head of the Virtual School
Land Charges Registrar	Principal Local Land Charges Officer
Proper Officer (Local Government Act 1972)	Monitoring Officer
Health and Safety Advisor	Head of Safety, Health And Wellbeing
RIPA Monitoring Officer	Executive Director Assurance

## Part 2G

### Functions not to be the Responsibility of the Executive

**In accordance with Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (The Regulations) certain functions must be determined by Council and cannot be the responsibility of the Executive. Many of them are delegated to a committee of Council or a council officer.**

The list of functions together with the relevant statutory provision is set out in Schedule 1 of The Regulations.

Schedule 1 of Regulations can be accessed here [The Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2000/1066/schedule-1)



# London Borough of Barnet

## Constitution

### Part 3 - Rules of Procedure

- Part 3A - Council Procedure Rules
- Part 3B - Executive Procedure Rules
- Part 3B1 - Appendix to Executive Procedure Rules - Delegated Powers of Portfolio Holders
- Part 3C - Committee Procedure Rules
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- Part 3D - Budget and Policy Procedure Rules
- Part 3E- Access to Information Procedure Rules
- Part 3F - Petition Scheme

## Part 3A

### Council Procedure Rules

#### 1. Annual Meeting of the Council

##### 1.1 Date and Business for Annual Meeting of the Council

1.1.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

##### 1.2 Appointment of Leader after Whole Council Elections

1.2.1 In a year when there is an ordinary election of Councillors, the Council shall appoint a Leader at its Annual Meeting, which shall be the first meeting of the Council after its whole Council elections.

1.2.2 The Leader shall:

1.2.2.1 Appoint at least two but no more than nine Members as members of the Executive and allocate portfolio holder responsibilities to them.

1.2.2.2 Appoint one of the members of the Executive as Deputy Leader.

1.2.3 The Leader shall hold office as Leader until one of the following circumstances applies:

1.2.3.1 The Council holds its first meeting after the next whole Council elections following his or her election as Leader; or

1.2.3.2 They resign from office; or

1.2.3.3 They are disqualified from being a councillor; or

1.2.3.4 They are removed from office by resolution of the Council

1.2.3.5 They are no longer a councillor.

1.2.4 If the circumstances in 1.2.3.1 apply, the Council shall appoint a new Leader at the same meeting of the Council. In all other cases, at the first meeting of the Council held after the circumstances arise.

1.2.5 Members who are appointed to the Executive by the Leader shall continue in their roles on the Executive until one of the following circumstances applies:

1.2.5.1 In the case of the Deputy Leader, the end of the term of office of the Leader;

1.2.5.2 The Leader makes changes to the roles of members of the Executive;

1.2.5.3 They are removed from office by the Leader;

1.2.5.4 They resign from office;

1.2.5.5 They are disqualified from being councillors;

1.2.5.6 They are no longer councillors.

1.2.6 Following a Borough Election and until the day of the Annual Meeting; if the Leader has not been re-elected as a councillor or, if re-elected, the political party of which they are a member does not have a majority on the council, then the powers of the Leader shall be exercised by the Head of Paid Services in consultation with all Group Leaders.

##### 1.3 Other Business at the Annual Meeting of the Council

## **London Borough of Barnet - Constitution**

- 1.3.1 In addition to the appointment of Leader which shall take place at the Annual Meeting in a year in which there is an ordinary election of Councillors, the Annual Meeting will:
- 1.3.1.1 elect a person to preside at the Annual Meeting if the Mayor is not present;
  - 1.3.1.2 elect the Mayor for the Borough of Barnet Council;
  - 1.3.1.3 note the Mayor's appointment of the Deputy Mayor of the Borough;
  - 1.3.1.4 receive the results of the Borough Elections (in an election year);
  - 1.3.1.5 receive notification from the Leader of the Council of the name of the Member appointed as their Deputy Leader (in an election year)
  - 1.3.1.6 receive notification from the Leader of the Council of the number of Members they are appointing to the Executive, their names and their portfolios
  - 1.3.1.7 approve the minutes of the last meeting;
  - 1.3.1.8 receive any announcement from the Mayor;
  - 1.3.1.9 receive any declarations of interests from Members;
  - 1.3.1.10 receive any apologies for absence
  - 1.3.1.11 establish at least one Overview and Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 2 of this Constitution);
  - 1.3.1.12 receive annually the Allocation of Responsibilities (Scheme of Delegation) as set out in Part 2 of this Constitution;
  - 1.3.1.13 appointing the Chair, Vice chair, members of committee making other appointments to committees and boards and approving or report their respective Terms of Reference.
  - 1.3.1.14 appointing and nominating representatives of outside bodies unless the appointment has been delegated by Council
  - 1.3.1.15 reports from other committees and officers as required.
  - 1.3.1.16 approve a programme of ordinary meetings of the Council for the year; and
  - 1.3.1.17 consider any other business set out in the notice convening the meeting.
- 1.4 **Selection of Councillors on Committees**
- 1.4.1 At the Annual Meeting, the Council will:
- 1.4.1.1 decide which Committees to establish for the Municipal Year;
  - 1.4.1.2 decide the size and terms of reference of those Committees and sub-committees;
  - 1.4.1.3 decide the allocation of seats (and substitutes) to political groups in accordance with the wishes of the group leaders
  - 1.4.1.4 receive nominations and appoint Councillors to serve on each Committee and sub-committee;
  - 1.4.1.5 appoint a Chair and Vice Chair for each Committee as may be appropriate for the Municipal Year;



## **London Borough of Barnet - Constitution**

1.4.1.6 appoint independent members and co-optees to Committees as appropriate

1.4.1.7 make appointments to any joint Committees with other authorities and to outside bodies.

### **1.5 Replacement of Councillors on Committees and Sub-Committees**

1.5.1 This Rule shall apply only to those committees or sub-committees or other internal bodies constituted in accordance with the political balance rules

1.5.2 Before a replacement of a Councillor appointed to a body may take effect, a minimum of five clear working days written notice shall be given to the Monitoring Officer by a Group Leader (or their nominated representative) of the replacement of one Councillor from their Group for another Councillor from their Group to serve on any committee, sub-committee, advisory panel etc.

1.5.3 A replacement shall continue in force until further notice as a permanent change unless a further written notice is received in accordance with 1.5.2 above.

1.5.4 At the beginning of the relevant meeting to which the replacement applies, the Chair shall advise of the details of any replacements. Details of replacements will be minuted. The new appointment will be reported to the next meeting of Council.

## **2. Ordinary Meetings**

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council and listed in the Calendar of Meetings.

## **3. Extraordinary Meetings**

### **3.1 Calling Extraordinary Meetings**

3.1.1 Those listed below may request the Monitoring Officer or Head of Governance to call Council meetings in addition to ordinary meetings:

3.1.1.1 the Council by resolution;

3.1.1.2 the Mayor; or

3.1.1.3 any five Members of the Council if they have signed a requisition presented to the Mayor and they have refused to call a meeting or have failed to call a meeting within 5 clear working days of the presentation of the requisition.

3.1.2 If the Chief Finance Officer makes a report under section 114 of the Local Government Finance Act 1988 or the Monitoring Officer makes a report under section 5 of the Local Government and Housing Act 1989, the Monitoring Officer shall call a meeting of the Council for the purpose of considering that report within the period specified by the relevant statute.

### **3.2 Business**

3.2.1 Business at Extraordinary meetings of the Council shall be restricted to:

3.2.1.1 the election of a person to preside if the Mayor is absent;

3.2.1.2 any item of business specified by the Council, Mayor or Monitoring Officer calling the meeting or specified in the requisition presented by at least five Members of Council;

3.2.1.3 any petitions relating to items of business on the agenda which the Mayor agrees to hear.

#### **4. Order of Business at Ordinary Meetings**

##### **4.1 Arrangement of Items in the Summons**

Items to be included in the Summons shall be in any order that is considered appropriate by the Monitoring Officer for the efficient dispatch of the business of that meeting.

##### **4.2 Order of business**

4.2.1 Except as qualified by 4.1 and varied by Rule 4.4 the order of business at Ordinary Council meetings shall be to:

4.2.1.1 choose a person to preside if the Mayor is absent;

4.2.1.2 receive any apologies for absence.

4.2.1.3 prayer and other observances

4.2.1.4 receive declarations of interest from Members and any dispensations granted by the Monitoring Officer.

4.2.1.5 confirm the minutes of the last meeting;

4.2.1.6 receive petitions from Members and the public in accordance with the arrangements for the making of petitions (see Part 3F of this Constitution);

4.2.1.7 receive any announcements from the Leader and/or Portfolio Holders;

4.2.1.8 receive reports from the Executive and the Council's Committees;

4.2.1.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees or Scrutiny Sub-Committee, and reports of the Head of Paid Service as appropriate;

4.2.1.10 receive questions and deputations from, and provide answers to, Members of Council and citizens in accordance with the Rules below.

4.2.1.11 consider motions;

4.2.1.12 receive reports and questions about joint arrangements and external organisations;

4.2.1.13 agree the council calendar meetings include the ordinary meetings of the Council

##### **4.3 Leader and Portfolio Holders' Announcements**

4.3.1 Announcements by the Leader and Portfolio Holders submitted in accordance with Rule 4.2 will be dealt with at ordinary meetings of the Council in the following way:

4.3.1.1 A Leader and Portfolio Holders' Announcements item will appear on the Council's order of business paper as a separate item and the Leader and / or Portfolio Holders may give a short summary statement updating the Council on matters of interest and relevant issues which have come to the fore since the previous meeting of the Council;

4.3.1.2 The Leader and Portfolio Holders' Announcements will last not more than 10 minutes.

##### **4.4 Variation to the Order of Business**

4.4.1 With the exception of items referred to in 4.2.1.1 and 4.2.1.2 of Rule 4.2, the order of business may be varied on motion without debate so as to give

precedence to any question of special importance. If the Mayor proposes the motion it may be put to the vote without being seconded.

## **5. Arrangements for Meetings**

### **5.1 Time and Place of Meetings**

5.1.1 Meetings of the Council shall take place at the time and place stated on the summons. Following consultation with the Leaders of each of the political groups and subject to compliance with the Access to Information Rules (Part 3E of the Constitution), the Mayor shall have the power to alter the venue, day and time if they believe it to be appropriate for the conduct of the business of the Council.

### **5.2 Cancellation of Meetings**

5.2.1 In exceptional circumstances after consulting the Mayor, the Head of Governance and or the Monitoring Officer may cancel an ordinary meeting of the Council either before or after the summons for the meeting has been issued provided that reasons for the cancellation are given.

## **6. Notice of and Summons to Meetings**

6.1 The Monitoring Officer/Head of Governance will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules set out in Part 3E of the Constitution. At least five clear working days before a meeting, the summons signed by the Monitoring Officer/Head of Governance will be sent to every Member of the Council. The summons will give the date, time and place of the meeting and specify the business to be transacted. It will be accompanied by all relevant reports.

6.2 If there is a request to add an item to the Summons after the statutory deadline for publication, that item may only be considered if the Mayor (as Chair of the Council) agrees, by virtue of the special circumstances set out either in the report or on the supplemental Summons, that the item should be considered as a matter of urgency and then specified in the minutes of the meeting.

## **7. Person to Preside**

7.1 The person presiding at the meeting may exercise any power or duty of the Mayor.

## **8. Quorum**

8.1 The quorum of a meeting of the Council will be one quarter of the whole number of Members.

8.2 If, after 15 minutes from the advertised time of the start of the meeting, or such other longer period as the Mayor may decide, a quorum is not present, the meeting will not take place. The Mayor may announce the date and time that the meeting will be reconvened.

8.3 During any meeting if the Mayor counts the number present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. Duration of Meetings**

9.1 Commencement and Closure

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- 9.1.1 Meetings of the Council will commence at the time set on the agenda and continue for 3 hours, except as determined under Rule 9.2 or where the Council is:
- 9.1.1.1 considering whether to confirm the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer, or
  - 9.1.1.2 considering whether to uphold an appeal against a disciplinary sanction (including dismissal) imposed on an officer by the Chief Officers' Employment Panel.
- 9.2 **Varying the Closure Time**
- 9.2.1 A meeting of the Council shall terminate in the manner set out in Rule 9.1.1 unless:
- 9.2.1.1 the business of the meeting has been completed before 3 hours have expired; or
  - 9.2.1.2 by resolution passed before the closure time, the Council resolves to extend the meeting for a further 30 minutes.
- 9.2.2 For the avoidance of doubt, a meeting may use the provisions within 9.2.1.2 above more than once in any meeting, provided that the motion to extend the closure time is moved before the time for the closure of the meeting or before the end of the period by which the meeting has already been extended.
- 9.2.3 In considering whether 9.2.1.1 and 9.2.1.2 above are expedient, the Council will have regard to not prejudicing third party rights or interests affected by the remaining business on the summons.
- 10. Validity of motions, amendments and questions**
- 10.1 Every motion, amendment and question shall be relevant to matters within the Council's powers or duties or which affect the borough. The Mayor shall, if need be, give a ruling as to whether the Motion is relevant. If the Monitoring Officer has any doubts about any motion, amendment or question for the agenda for reasons of propriety, he or she may refer it to the Mayor. If the Mayor considers the motion, amendment or question to be vexatious, irrelevant, or otherwise improper, the Monitoring Officer will return it to the Member who submitted it. The Monitoring Officer will explain to the Member in writing why it will not be included on the agenda circulated for the meeting.
- 11. Public Questions**
- 11.1 General**
- 11.1.1 Members of the public may ask questions of Members of the Executive (Portfolio Holders) and Chairs of Council Committees at ordinary meetings of the Council. Questioners will not be allowed to address the Council generally on a matter, they may only ask questions.
- 11.2 Time Limit for Questions**
- 11.2.1 There will be a time limit of 20 minutes for the asking and answering of public questions. Once this time limit has been reached no further questions can be asked but a questioner can complete a question or a supplemental question, and the Member can complete a reply.
- 11.3 Order and Notice of Questions**
- 11.3.1 Questions will be asked in the order that notice of them was received, except that the Mayor may group together similar questions.

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- 11.3.2 A question may only be asked if notice has been given in writing or by electronic mail to the Head of Governance ([governanceservice@barnet.gov.uk](mailto:governanceservice@barnet.gov.uk)) no later than 10.00am two clear working days before the day of the meeting. Each question must be emailed submitted by the questioner, identifying their name, address, and where appropriate e-mail address, and give the name of the Member to whom it is to be put.
- 11.3.3 Without prejudicing 11.3.2 above, where a report is circulated after the normal Council agenda despatch by supplemental agenda a question may be asked, if notice has been given in writing or by electronic mail to the Head of Governance ([governanceservice@barnet.gov.uk](mailto:governanceservice@barnet.gov.uk)) no later than **3pm ONE** clear working day before the day of the meeting. Each question must be emailed from the questioner's email address, give the name and address of the questioner and name of the Member to whom it is to be put.
- 11.3.4 The Member to whom any question is put may arrange for another Member to answer on their behalf.
- 11.3.5 The Council takes no responsibility for questions which are sent and fail to reach the correct e-mail address or postal address.
- 11.4 **Number of Questions**
- 11.4.1 At any one meeting no person may submit more than one question. A questioner will be allowed to ask a supplementary question directly relating to the content of the answer given to the written question. The Mayor may reject a supplemental question if it falls within any of the categories in paragraph 11.5 below.
- 11.5 **Scope of Questions**
- 11.5.1 The Mayor on the advice of the Monitoring Officer may, on giving reasons, reject a written question if it:
- 11.5.1.1 would risk defamation of an individual or is frivolous or offensive; or otherwise improper
  - 11.5.1.2 does not relate to a matter for which the Council has powers or duties; or
  - 11.5.1.3 does not relate to a matter which affects the London Borough of Barnet; or
  - 11.5.1.4 would require the disclosure of confidential or exempt information; or
  - 11.5.1.5 is substantially the same as a question which has been put at any meeting of the Council in the last six months.
- 11.5.2 No invalid questions will be circulated.
- 11.6 **Record of Public Questions**
- 11.6.1 The Head of Governance will make the public questions available for the public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.
- 11.6.2 Copies of all valid questions will be circulated to all Members and will be made available to the public at the meeting.
- 11.7 **Asking Questions at the Meeting**
- 11.7.1 The Mayor will invite the questioner to put the question to the Member named in the notice or other Member nominated to answer.

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- 11.7.2 If a questioner, who has submitted a written question, is unable to be present, they may ask the Mayor to put the question on their behalf unless they have a substitute. The Mayor may either:
- 11.7.2.1 ask the question on the questioner's behalf; or
  - 11.7.2.2 indicate that a written reply will be given; or
  - 11.7.2.3 decide that, in the absence of the questioner, that the question will not be dealt with.
- 11.8 **Written Answers**
- 11.8.1 Any question, which cannot be dealt with during public question time because of lack of time, will be dealt with by written answer. A copy of any written answer shall be given to the Monitoring Officer who will send it to the questioner and all Members of the Council.
12. **Member Questions**
- 12.1 **Member Questions**
- 12.1.1 Subject to Rule 11.5, a Member (excluding members of the Executive) of the Council may ask a Member of the Executive or the Chair of any Committee a question (which depending on its nature may be dealt with in either public or private session) on any matter in relation to which the Council has powers or duties or which affects the London Borough of Barnet.
- 12.1.2 A limit of 30 minutes shall be given to the asking of written questions by Members. The equivalent of no more than one question per Member will be allowed.
- 12.1.3 Questions will be answered giving the first 4 questions to the opposition party and then rotating the questions between groups in accordance with the order in which they are received by the Head of Governance.
- 12.2 **Notice of Questions**
- 12.2.1 Member may only ask a question if they have submitted such question by 10am, 14 clear working days before the day of the meeting in writing, of the question to the Head of Governance.
- 12.3 **Response**
- 12.3.1 An answer may be given by the Member to whom the question was asked or by such other member as is considered appropriate in writing in advance of the meeting.
- 12.4 **Supplementary Question**
- 12.4.1 A Member asking a question under Rule 12.1 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.
- 12.5 **Invalid Questions**
- 12.5.1 The Mayor may, in consultation with the Monitoring Officer rule out of order questions which in his or her opinion:
- 12.5.1.1 would risk defamation of an individual or are frivolous or offensive or otherwise improper; or
  - 12.5.1.2 do not relate to a matter for which the Council has powers or duties or do not affect the London Borough of Barnet; or

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12.5.1.3 would require the disclosure of confidential or exempt information; or

12.5.1.4 are substantially the same as a question which has been put at any meeting of the Council in the last six months.

12.5.2 No invalid questions will be circulated.

### 13. Deputations

13.1 Requests for deputations must be in writing and supported by the signatures of at least five and no more than 24 citizens (deputations with more than 24 signatures will be treated under the Petition Scheme) or representatives of local organisations or businesses in Barnet. The signatories must clearly state their names and post code/qualifying education/business address. The request must explain why a deputation is required.

13.2 The request must be given to the Monitoring Officer/Head of Governance at least two clear working days before the day of the meeting, although the Committee or sub-committee on the grounds of urgency can waive this requirement.

13.3 Those persons nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputation must not exceed three minutes.

13.4 The time allowed for questioning of the deputation by Members will be 10 minutes.

13.5 The deputation shall be heard at the beginning of the meeting. The Mayor has complete discretion to move any items that are subject to a deputation on the agenda.

13.6 The total time for deputations at the meeting will be no more than 20 minutes.

#### 13.7 Deputations are not permitted:

13.7.1 If they are defamatory, abusive, offensive or otherwise improper.

13.7.2 If submitted from Council employees or trade unions on employment matters; there are avenues available for these to be addressed via the Terms of Reference of the Licencing and General Purposes Committee.

13.7.3 If they would result in the release of confidential information, or which may prejudice enforcement.

13.7.4 If they relate to a matter where there is a right of appeal against any decision of the Council.

13.7.5 If they have been submitted by someone who has been deemed to be subject to the Management of Unreasonable Complainant Behaviour Policy and they relate to the particular subject matter for which the policy was imposed;

13.7.6 If they are received from people who are not Barnet citizens;

13.7.6.1 Members of the Council, co-optees and advisers (in that capacity) shall not be signatories to, lead or form part of any deputation.

13.7.6.2 Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment (either terms of reference or work area) with the Council.

#### 13.8 Responses to Deputations

13.8.1 Council may respond to deputations in the following ways:

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13.8.1.1 To note the deputation and take no action.

13.8.1.2 Ask officers to prepare a report for the next meeting (of either Council or relevant committee) on the deputation.

13.8.2 Ask officers to provide a written response to the deputation.

### **13.9 6 Month Rule**

13.9.1 No deputation or public question shall be accepted by the Council within 6 months after a deputation or public question has appeared before it on the same or a similar subject.

## **14. Recommendations from the Executive, Committees and Statutory Officers**

### **14.1 Receipt of Recommendations from the Executive**

14.1.1 The Executive shall make recommendations to the Council on any matter that is within the Council's functions falling to the Council to determine or on which the Executive is required to consult with or obtain the approval of the Council. Such recommendations shall be moved by the Leader. A seconder to such a motion is not required.

### **14.2 Receipt of Recommendations from Committees**

14.2.1 The Council shall consider recommendations made to it by Committees on matters falling within the Council's terms of reference. The recommendation shall be moved by the Chair of that Committee. A seconder to such a motion is not required.

### **14.3 Order of Recommendations**

14.3.1 Recommendations to the Council from the Executive or a Committee shall be placed on the summons by the Monitoring Officer in such order as seems most convenient for the conduct of the business of the Council. They shall be considered in the order on the summons unless the Mayor proposes to vary the order of business under Rule 4.4.

### **14.4 Receipt of Recommendations from Statutory Officers**

14.4.1 The Head of Paid Service may make reports to Council as necessary. The Head of Paid Service, Monitoring Officer, Section 151 Officer, Director of Children's Services and Director of Adult Social Services may report to Council as required by statute in the exercise of their statutory responsibilities.

### **14.5 Items affecting the employment of officers**

14.5.1 This rule applies during consideration of an appeal from an officer arising out of a decision made by the Employment Sub-Committee or a recommendation to dismiss made by the Independent Panel.

14.5.2 The officer who is the subject of the item and a person accompanying them under the statutory right to be accompanied has the right to speak in relation to the item.

14.5.3 Rule 12.1 shall apply with a modification that questions may also be asked of the officer who is the subject of the item.

## **15. Motions**

### **15.1 Notice**

15.1.1 Except for motions that can be moved without notice under Rule 16 written notice of every motion, must be delivered to the Head of Governance not later than 10am 8 clear working days before the date of the meeting. All motions will be entered in a document open to public inspection.



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### **15.2 Motions Set Out in Summons**

- 15.2.1 Motions for which notice has been given will be listed on the summons in the order in which notice was received.
- 15.2.2 Notices of motion on the summons shall state the name of the Member proposing the motion.

### **15.3 Invalid Motions**

- 15.3.1 The Mayor may, in consultation with the Monitoring Officer rule out of order motions which in his or her opinion:
  - 15.3.1.1 would risk defamation of an individual or are frivolous or offensive or otherwise improper
  - 15.3.1.2 do not relate to a matter for which the Council (as local authority) has powers or do not affect the London Borough of Barnet; or
  - 15.3.1.3 would require the disclosure of confidential or exempt information; or
  - 15.3.1.4 are substantially the same as a motion which has been put at any meeting of the Council in the last six months.
- 15.3.2 No invalid motions will appear on the Council agenda or be otherwise circulated.

### **15.4 Motions Relating to Reports and Recommendations on the agenda**

- 15.4.1 Where the Mayor considers it appropriate, any motion for which notice has been duly given and which relates to any recommendation of the Executive or a Committee or a statutory officer to be considered at the same meeting, may be treated as an amendment to such recommendation and shall be considered at the same time as the recommendation is considered.

### **15.5 Motions Relating to a Matter Delegated to the Executive or a Committee**

- 15.5.1 If the Mayor, in consultation with the Monitoring Officer, considers that any motion made under this Rule refers to matters within the powers of the Executive or a Committee of the Council, then it shall be indicated on the Council summons, supported by reasons, that the motion shall stand referred to the next meeting of the Executive or to a Committee. Any Member may move that any such referral should not apply to a motion but shall be dealt with as if paragraph 15.6.1 below applied, such motion having been identified to the Monitoring Officer at the time of the deadline for submissions of motions.

### **15.6 Motions Stand referred to the Executive under Rule 15.5**

- 15.6.1 If a motion is marked on the Summons as to stand referred to the Executive under Rule 15.5, then where Council decides to disapply the referral and allow the matter to be debated, the Council can make no decision on the matter but may make a recommendation or pass comments to the Executive.
- 15.6.2 The Executive shall not be bound to accept any such recommendation or act on any such comments.

### **15.7 Motions calling for a Report**

- 15.7.1 A motion which calls for a report on a given matter and which has been signed by six Members of the Council shall be referred without discussion to the next meeting of the Executive or appropriate Committee, or to a Portfolio Holder. A report from the

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Executive, Portfolio Holder or Committee shall be submitted to the Council within a maximum of four months unless the Council agree a longer period.

### **16. Motions Without Notice**

#### **16.1 Motions that may be moved by any Member without notice**

16.1.1 The following motions may be moved without notice by any Member:

16.1.1.1 in the absence of the Mayor of the Council, to appoint the Deputy Mayor or another Member to preside at the meeting at which the motion is moved;

16.1.1.2 in relation to the accuracy of the minutes;

16.1.1.3 to change the order of business on the agenda;

16.1.1.4 to refer a matter to an appropriate body or individual;

16.1.1.5 to receive recommendations or reports from the Executive, a Portfolio Holder, Committee or an officer and any resolutions following from them;

16.1.1.6 to withdraw a motion;

16.1.1.7 that the meeting continue beyond three hours in duration;

16.1.1.8 to exclude the press and public in accordance with Part E (Rule 12) of the Access to Information Procedure Rules;

16.1.1.9 to not hear further a Member named under Rule 22.1 or to exclude them from the meeting under Rule 23.1; and

#### **16.2 Motions relating to Closure of Debate, Adjournment and Next Business**

16.2.1 The following motions may be moved without notice by any Member who has not spoken on the matter under debate at the close of any speech:

16.2.1.1 that the Council meeting be adjourned with immediate effect;

16.2.1.2 that the debate be adjourned to the next meeting of the Council;

16.2.1.3 that the Council proceed to the next item of business on the agenda;

16.2.1.4 that the question be now put without further debate.

#### **16.3 Limits to the Right to Move Motions Under 16.2**

16.3.1 The Mayor shall have the power to refuse to accept a motion under 16.2 if, in their opinion, they consider it to be premature.

#### **16.4 Further Provisions Relating to Motions Under 16.2**

16.4.1 When a motion to adjourn is carried, the Mayor shall determine which Member shall have the right to open the debate when resumed.

16.4.2 When a motion that the question be now put is carried the mover of the motion previously under discussion shall have the right to reply before the vote is taken on that motion or on an amendment to that motion if they have not already spoken to the amendment.

16.4.3 The Mayor may allow speeches to continue for a longer period where they consider that it is the wish of the Council that they should do so.

16.4.4 Rule 16.2 does not apply where the Council is:

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16.4.4.1 considering whether to confirm the dismissal of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

16.4.4.2 considering whether to uphold an appeal against a disciplinary sanction (including dismissal) imposed on an officer by the Chief Officers' Employment Panel.

### **16.5 Amendments to Motions**

16.5.1 An amendment to a motion must be relevant to the motion and will either be:

16.5.1.1 to leave out words;

16.5.1.2 to leave out words and insert or add others;

16.5.1.3 to insert or add words;

as long as the effect of 16.5.1.1 to 16.5.1.3 is not to negate the motion or to introduce a new proposal.

16.5.2 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion.

### **16.6 Point of Order**

16.6.1 A Member may raise a point of order at any time and shall indicate their wish to do so by addressing the Mayor. The Mayor will hear it immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or of the law. The Member must start by identifying the Rule or law and the way in which they consider it to have been broken. The ruling of the Mayor on the matter will be final.

### **16.7 Personal Explanation**

16.7.1 A Member who has been named by another Member may seek to make a personal explanation if the named Member believes that an earlier speech by the named Member during the meeting has been misunderstood. A Member shall indicate their wish to make a personal explanation by addressing the Mayor. The ruling of the Mayor on the admissibility of a personal explanation will be final.

## **17. Previous Decisions and Motions**

### **17.1 Motion to Rescind a Previous Decision**

17.1.1 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved.

### **17.2 Motion Similar to one Previously Considered**

17.2.1 A motion or amendment in similar terms to one that has been considered at a meeting of Council in the past six months cannot be moved.

## **18. Voting**

### **18.1 Majority**

### **18.2 Mayor's Casting Vote**

18.2.1 If there is an equal number of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

### **18.3 Individual Recorded Vote and Explanation for Vote**

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18.3.1 If immediately before the vote is taken any Member present at the meeting requests that their vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

18.3.2 A recording of a vote or abstention in the minutes shall be made without explanation save in cases where it is necessary for the avoidance of ambiguity, when a brief note may be added at the Member's request explaining that Member's reason for voting or not voting.

### **18.4 Recorded Vote at Annual Council Tax Meeting**

18.4.1 At any meeting of the Council where a decision is taken on the setting of council tax or budget, then the vote of each member present for or against or not voting shall be so recorded in the minutes.

### **18.5 Recorded Vote by Division**

18.5.1 If immediately before an ordinary vote is taken 10 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## **19. Minutes**

### **19.1 Signing the Minutes**

19.1.1 The Mayor will sign the minutes of the proceedings at the next available meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. Only the accuracy of the minutes may be discussed.

### **19.2 Minutes of Decisions of the Council**

19.2.1 Minutes of the Council shall be published on the Council's intranet and website. Minutes shall be published within 5 clear working days of the date of the meeting.

## **20. Exclusion of the Press & Public**

20.1 Members of the public and press may only be excluded either in accordance with Rule 12 of the Access to Information Procedure Rules in Part 3E of this Constitution or under Rule 24 (General Disturbance).

## **21. Mayor Standing**

21.1 When the Mayor stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

## **22. Member not to be Heard Further**

22.1 If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the Member be not heard further for the remainder of the item of business being considered. If seconded, the motion will be voted on without discussion.

## **23. Member to Leave the Meeting**

23.1 If the Member continues to behave improperly after such a motion under 22.1 is carried, the Mayor may move that either the Member leave the meeting or that the meeting be adjourned for a specified period. If seconded, the motion will be voted on without discussion.

## **24. General Disturbance**

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24.1 If there is a general disturbance making business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

### **25. Confidential Business**

25.1 All reports, other documents, information, discussions and proceedings of the Council which are marked "Exempt" under Schedule 12A of the Local Government Act 1972, or "Confidential", must be treated as such by all Members of the Council. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document.

25.2 Confidential and/or exempt items will be discussed in 'Part II' of the Council meeting following a resolution to exclude the press and public.

### **26. Disturbance by the Public**

#### **26.1 Removal of Member of the Public**

26.1.1 If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

#### **26.2 Clearance of part of a Meeting Room**

26.2.1 If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part to be cleared.

#### **26.3 Adjournment**

26.3.1 Following an order by the Mayor for one or more members of the public to leave the meeting room, if they deem it necessary in the interests of public safety and for the safety of Members and officers present, the Mayor may adjourn the meeting for as long as they think necessary.

26.3.2 If it is considered expedient so to do, the Mayor with the agreement of the Members present may adjourn the meeting for such duration as is considered appropriate.

#### **26.4 Ruling of the Mayor on Interpretation of these Rules**

26.4.1 The Mayor's ruling on the interpretation or application of any of the Council Procedure Rules is final.

## Part 3B

### Executive Procedure Rules

#### 1. Application of these Rules

- 1.1 These Rules apply to the Executive and meetings of the Executive (being either a meeting of a number of Members of the Executive or the Leader when taking a Key Decision by way of a Portfolio Holder Meeting). Some Rules also apply to a Member meeting alone.

#### 2. Executive Decisions

- 2.1 Executive functions may be exercised by:

- 2.1.1 the Executive as a whole;
- 2.1.2 an individual Member of the Executive;
- 2.1.3 an officer;
- 2.1.4 an arrangement with another authority for the discharge of functions.

- 2.2 A Key Decision may not be taken by an individual Member of the Executive unless either it has been delegated to an individual Member of the Executive or it is a Key Decision on an urgent matter and is taken in accordance with Rule 2.1.3 of the Appendix to the Executive Procedure Rules.

#### 2.3 Definition of Executive Meeting

An Executive meeting shall include:

- 2.3.1 a meeting open to all Members of the Executive.
- 2.3.2 An individual Member of the Executive (Portfolio Holder) when making Key Decisions.

#### 3. Delegation by the Executive

- 3.1 The Leader or, in the absence of the Leader, the Deputy Leader will present to the Council a written record of delegations made by them at the Annual Meeting of the Council for inclusion in the Allocation of Responsibilities (set out in Part 2 of this Constitution).

- 3.2 The document presented by the Leader or, in the absence of the Leader, the Deputy Leader must contain the following information relating to Executive functions in the ensuing Municipal Year:

- 3.2.1 the name of the Executive Member who will serve as Deputy Leader;
- 3.2.2 the names and Wards of the Councillors appointed to the Executive;
- 3.2.3 the nature of the Portfolios to be held by each Executive Member;
- 3.2.4 the extent of any authority delegated to those Executive Members individually, including details of the limitation on their authority;
- 3.2.5 the nature and extent of any deputising arrangements within the Executive;
- 3.2.6 any changes to the terms of reference and constitution of the Executive.
- 3.2.7 any changes to the nature and extent of any delegation of Executive functions to any other authority or any arrangements with another authority for the discharge of functions and the names of those Executive Members appointed to any joint committee for the coming year;

3.2.8 any changes to the nature and extent of any delegation of Executive functions to officers as set out in the Constitution with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;

3.3 In an election year the documents referred to in 3.2 above may be presented by the Leader or, in the absence of the Leader, the Deputy Leader to the first appropriate Council meeting. This may be a special meeting convened for the purpose.

#### **4. The Council's Allocation of Responsibilities and Executive Functions**

4.1 The Council will approve a Scheme of Delegations or Allocation of Responsibilities section of the Constitution, and may amend it at any time by resolution, but will normally undertake any revision at its annual meeting.

4.2 However, in years where whole Borough elections are held, notification of the Scheme of Delegation or Allocation of Responsibilities may be presented at the next Council meeting after the Annual Meeting.

#### **5. Conflicts of Interest**

5.1 If an individual Member of the Executive has a conflict of interest or if every Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in this Constitution (Part 4).

5.2 If the exercise of an Executive function has been delegated to an individual Portfolio Holder and a conflict of interest arises, then the function may be exercised, by the Leader or Deputy Leader. In the case where an officer is unable to take a delegated decision due to a conflict of interest, and no scheme exists within the department which allows referral of that decision to another appropriate officer, that decision will be referred to the relevant Portfolio Holder, or the Leader or Deputy Leader.

5.3 If a conflict of interest arises for the Leader or Deputy Leader where the decision would have been referred to them, then that decision may be referred to Cabinet.

#### **6. Urgent Business**

6.1 Urgent business may only be considered where:

6.1.1 the Access to Information Procedure Rules in this Constitution have been complied with; or

6.1.2 a Member of the Executive or any Statutory Officer has requested that an item is placed on the agenda for the meeting at any time before the start of the meeting and the Executive agrees to the item being included on the grounds of urgency. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.

#### **7. Executive Meetings**

##### **7.1 Time, place and changes to meetings**

7.1.1 The Executive will meet at time and place published on the agenda.

7.1.2 The Leader or, in the absence of the Leader, the Deputy Leader may convene additional meetings of the Executive, provided that the requirements of the Access to Information Procedure Rules in this Constitution are complied with.

7.1.3 The date and time of a meeting of the Executive may be changed by the Leader or, in the absence of the Leader, the Deputy Leader upon giving five clear

working days' notice. In urgent situations, the meeting may be cancelled by the Leader or the Head of Governance, with a shorter notice period.

## **8. Special Meetings**

- 8.1 Those listed below may request the Head of Governance to call Executive meetings in addition to ordinary scheduled meetings:
- 8.1.1 the Executive by resolution;
  - 8.1.2 the Leader of the Council;
  - 8.1.3 the Monitoring Officer (where the proper officer is not also the Monitoring Officer); or Chief Financial Officer;
  - 8.1.4 at least one-third of the Members of the Executive, if they have signed a requisition presented to the Leader of the Council and he/she has refused to call a meeting or has failed to call a meeting within five clear working days of the presentation of the requisition.
- 8.2 The date, time and place of special meetings will be set by the Head of Governance.
- 8.3 The Head of Governance must give public notice of the time and place of a public meeting by displaying it at the offices of the relevant local authority and publishing it on that authority's website, if it has one at least 5 clear days before the meeting or where the meeting is convened at shorter notice, at the time the meeting is convened.
- 8.4 Where a meeting is convened at short notice, no item of business shall be considered unless a copy of the agenda including the item of business has been available for inspection by the public from the time that the agenda for the meeting was sent to members.

## **9. Business**

- 9.1 Business at special meetings of the Executive shall be restricted to any item of business specified by the Executive, Leader, Monitoring Officer or Chief Financial Officer when calling the meeting or specified in the requisition presented by at least one-third of the Members of the Executive.
- 9.2 Business at the same special meeting may be added to the agenda subject to the agreement of the Monitoring Officer following consultation with the Leader of the Council and the leader(s) of the Opposition Group(s), stating reasons for urgency.

## **10. Meetings of the Executive to be held in Public**

- 10.1 All meetings of the Executive will be held in public. These meetings will be governed by the Access to Information Procedure Rules in this Constitution. Where the Executive is considering reports on matters which contain confidential or exempt information it may pass a resolution to exclude the press and public in accordance with the Access to Information Procedure Rules, having given 28 clear calendar days' notice of the intention to hold a private meeting (or part private).

## **11. Quorum**

- 11.1 Subject to Rule 11.2, the quorum for a meeting of the Executive shall be a minimum of three.



11.2 In order for an Executive meeting to be quorate, the Leader or Deputy Leader must be present unless they are precluded from participating in the item of business by reason of a conflict of interest.

## **12. Procedure for Decision Making by the Executive**

12.1 Executive decisions taken by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in this Constitution.

12.2 Where Executive Key Decisions are delegated to individual Executive Members, those decisions shall be taken in accordance with the Access to Information Procedure Rules in this Constitution.

## **13. Conduct of Executive Meetings**

### **13.1 Chair of the Executive**

At a meeting of the whole Executive the Leader shall preside if they are present. In the absence of the Leader, the Deputy Leader shall preside. If neither the Leader nor Deputy Leader are present, the meeting shall not proceed unless they are precluded from participating in the item of business by reason of a conflict of interest.

### **13.2 Petitions**

The Council has a petition scheme and this will be followed.

### **13.3 Public Questions**

#### **General**

13.3.1 Questions should be submitted in writing to the relevant Governance Officer by 10am on the third working day prior to the meeting.

13.3.2 Any questions submitted after this time will not be considered. Questions must specify the item of business on the agenda which they relate to.

13.3.3 Questions will be answered by the Leader in the meeting in order of receipt, alternating between residents. Residents will be able to ask one supplementary question per question answered.

13.3.4 Questions will be published prior to the meeting. Any additional questions received will be not be accepted.

13.3.5 Residents submitting questions are able to send a substitute to ask their question if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.

13.3.6 Any questions that are not answered at the meeting will be given a written response at the discretion of the Leader.

13.3.7 Written comments must specify the item of business on the agenda which they relate to. Cabinet agendas are published on the Council's website five clear working days prior to the meeting. Residents should state their road and postcode when submitting comments.

13.3.8 Each written comment is limited to 100 words. Written comments should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any written comments received after this time will not be

considered. A resident may submit one written comment per agenda item. Written comments will be reported to the Cabinet and published alongside the agenda papers for the meeting.

**13.4 Time limit for questions and comments**

13.4.1 At cabinet meetings a time period of up to 30 minutes is available for public questions and comments in total. Questions and comments will be dealt with in order of receipt.

**13.5 Scope of questions**

13.5.1 The Monitoring Officer may reject a question if it:

13.5.1.1 is not about a matter for which the Authority has a responsibility or which does not affect the Borough;

13.5.1.2 would risk defamation of an individual or is frivolous or offensive; or otherwise improper;

13.5.1.3 is substantially the same as a question which has been put at any meeting of the Executive in the last six months; or

13.5.1.4 requires the disclosure of confidential or exempt information.

**13.6 Questions by Members**

13.6.1 Questions:

13.6.1.1 A Councillor may ask a Portfolio Holder (Member of the Executive) a question (which depending on its nature may be dealt with in either public or private session) on any matter which is on the cabinet meeting agenda. For the avoidance of doubt, a Member is not limited to asking a single substantive question at any one Executive meeting. No prior notice is required for these questions.

13.6.1.2 The first 4 questions will be given to the opposition group, then they will be rotated between the groups in accordance with the order in which they are requests are made to the Chair.

13.6.1.3 A limit of 15 minutes shall be given to the asking and answering of questions by Councillors under this Rule.

**13.7 Response**

13.7.1 In response to a Non-executive Member speaking at Cabinet, an answer may be given by the Leader or Portfolio Holder.

13.7.2 A response may take the form of:

13.7.2.1 a direct oral answer;

13.7.2.2 where the desired information is a publication of the Council or other published work, a reference to that publication; or

13.7.2.3 where the reply cannot conveniently be given orally, a written answer supplied later to the questioner.

**13.8 Invalid Questions**

13.8.1 The Chair may, in consultation with the Monitoring Officer, rule out of order questions which in their opinion:

13.8.1.1 would risk defamation of an individual or is frivolous or offensive; or otherwise improper; or

13.8.1.2 do not relate to a matter for which the Executive has powers or duties or which does not affect the London Borough of Barnet; or

13.8.1.3 would require the disclosure of confidential or exempt information; or is substantially the same as a question which has been put at any meeting of the Executive in the last six months.

**13.8.2 6 Month Rule**

13.8.2.1 No deputation, public question or comment shall be accepted within 6 months after a deputation, public question or comment has appeared before on the same or a similar subject.

**13.9 The Business of Meetings**

13.9.1 At each meeting of the Executive, the following business will be conducted where appropriate.

**13.10 Apologies**

13.10.1 Approving the minutes of the last meeting;

13.10.2 Declarations of interest and any dispensations granted by the Monitoring Officer

13.10.3 Petitions and questions, comments and deputations (if any);

13.10.4 Matters referred to the Executive (whether by the Overview and Scrutiny Call-in sub-committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution.

13.10.5 Consideration of reports from the Overview and Scrutiny Committee or Scrutiny sub-committees;

13.10.6 Consideration of proposals for the budget and policy framework, prior to making decisions on them;

13.10.7 Consideration of the Key Decision Schedule (KDS);

13.10.8 Other matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions in accordance with the Access to Information Procedure Rules set out in Part 3 of this Constitution.

13.10.9 Reports of statutory officers

13.10.10 Matters referred to the Cabinet.

**13.11 Decisions to be taken only on a report**

13.11.1 The Executive, or an individual Executive decision-taker, may only take a decision upon consideration of a written report from the relevant officer of the Council.

13.11.2 Reports from officers will follow a standard format including the following statutory requirements:

13.11.2.1 Resource implications (observations of the Chief Financial Officer)

13.11.2.2 Legal and Constitutional References (observations of the Monitoring Officer)

13.11.2.3 Details of background papers

13.11.2.4 Reasons for Recommendation

13.11.2.5 Options Considered and Rejected

13.11.2.6 List of Background Papers which will be published on the website and made available to the public

### 13.12 **Consultation**

13.12.1 All reports to the Executive on draft proposals relating to the budget or policy framework must contain details of consultation to be undertaken with stakeholders and relevant Overview and Scrutiny Committee or Scrutiny sub-committees. Final proposals must include details of the outcome of that consultation.

13.12.2 Reports on other matters must set out the details and outcome of consultation as appropriate to the matter under consideration.

### 13.13 **Executive Agenda**

13.13.1 The Leader or any Member of the Executive may request that the Monitoring Officer places an item on the agenda of the next available Executive meeting.

13.13.2 The Monitoring Officer will place the item on the agenda of the next available meeting of the Executive in accordance with the Access to Information Procedure Rules if the Call-In sub-committee or if the full Council has resolved that an item must be reconsidered by the Executive.

13.13.3 The Monitoring Officer and Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and/or may call or be required to call a meeting in pursuance of their statutory duties. In other circumstances, where both the Chief Financial Officer and the Monitoring Officer are of the opinion that an Executive meeting needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive within an appropriate timescale to deal with the issue in question, then they may also require that a meeting be convened at which the matter will be considered.

### 13.14 **Voting Procedure**

13.14.1 The Executive will decide all matters before it on a collective basis except where dissent is recorded by Members, by simple majority. The Chair will have a casting vote.

### 13.15 **Individual recorded vote and explanation for vote**

13.15.1 If immediately before the vote is taken, any voting Member present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

13.15.2 A recording of a vote or abstention in the minutes of the meeting shall be made without explanation save that in cases where it is necessary for the avoidance of ambiguity a brief note may be added at the Member's request explaining that Member's reason for voting or not voting.

**13.16 Guillotine**

13.16.1 Meetings of the Executive will not last longer than 3 hours.

**13.17 Key Decisions taken by individual members of the Executive**

13.17.1 A Key Decision may not be taken by an individual Member of the Executive unless it is a key decision on an urgent matter and is taken in accordance with 2.1.3 of the Appendix to the Executive Procedure Rules.

13.17.2 All Key Decisions to be taken by individual members of the Executive will follow the Access to Information Procedure Rules in Part 3 this Constitution.

13.17.3 At each meeting, the following business will be conducted:

13.17.3.1 declarations of any dispensations granted by the Monitoring Officer;

13.17.3.2 petitions and public questions, if any;

13.17.3.3 matters referred to the Executive Member (whether by the Call-in Sub-Committee or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rule on the Call-In Procedure (Part 3C of this Constitution);

13.17.3.4 consideration of reports from the Overview and Scrutiny Committee or Scrutiny sub-committees;

13.17.3.5 consideration of items for decision as set out in the agenda for the meeting.

**13.18 Who may speak**

13.18.1 Any Member of the Council may attend a meeting of a Portfolio Holder but may only speak if invited to do so by the Portfolio Holder.

**13.19 Implementation of Executive Decisions**

13.19.1 In order to allow for Call-In, no Executive Key Decision can be implemented until the expiry of five clear working days after the decision has been published, unless the decision-taker resolves as part of the decision that its implementation is urgent when the provisions contained in the Overview and Scrutiny Procedure Rule on the Call-In Procedure apply (Part 3C of this Constitution).

**13.20 Confidential Business**

13.20.1 All reports, other documents, information, discussions and proceedings of the Executive, or Portfolio Holder which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all Members. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the meeting following a resolution to exclude the press and public.

13.20.2 Executive Meetings and Key Decisions taken by the Leader (Portfolio Holder Decision Meeting) shall be subject to regulation 5 (Part 2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The Access to Information Procedure Rules (Part 3) set out the requirements for advance notice of any private meeting.

**13.21 Minutes of the Executive**

13.21.1 Minutes of the Executive shall be published on the Council's website.

**13.22 Production of Decision Notices and Minutes for Cabinet Meetings**

13.22.1 A Decision Notice will normally be published on the Council's website on the day immediately following the Cabinet Meeting thereby setting/invoking the Call-in period. Minutes of the Cabinet and other Executive Meetings will normally be published within five clear working days of the meeting.

**13.23 Exclusion of the Public**

13.23.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 3 of this Constitution or under Rule 13.28 (Disturbance by the Public) below.

**13.24 Members' Conduct**

**13.25 Precedence of Chair**

13.25.1 When the Chair speaks during a debate, any Member speaking at the time must stop speaking. The meeting must be silent.

**13.26 Member not to be heard further**

13.26.1 If any Member present persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further during the consideration of that item of business. If seconded, the motion will be voted on without discussion and the Member may be asked to leave the meeting.

**13.27 General disturbance**

13.27.1 If there is a general disturbance, making business impossible, the Chair may adjourn the meeting for as long as they think it is necessary.

**13.28 Disturbance by Public**

**13.28.1 Removal of Member of the Public**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

**13.29 Deputations**

13.29.1 Cabinet may receive a deputation on any matter appearing on the relevant agenda.

13.29.2 Requests to receive a deputation must be in writing and signed by at least five and no more than 24 citizens or representatives of local organisations or businesses in Barnet (documents with more than 24 signatures will be treated under the Petition Scheme). The signatories must clearly state their names and postcode qualifying education/business address. The request must explain why a deputation is required.

13.29.3 The request must be given to the Monitoring Officer/Head of Governance at least two clear working days before the day of the meeting.

- 13.29.4 The people nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputations must not exceed three minutes.
- 13.29.5 The total time allowed for deputations will be 30 minutes.
- 13.29.6 The deputation shall be heard at the beginning of the meeting. The Chair has complete discretion to move any items that are subject to a deputation on the agenda.
- 13.29.7 Members of the Council, co-optees and advisers shall not be signatories to, lead or form part of any deputation.
- 13.29.8 Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment (either terms and conditions or the work that they are undertaking) with the Council.
- 13.29.9 Deputations are not permitted:
  - 13.29.9.1 If they do not relate to a substantive item on the agenda
  - 13.29.9.2 If they are defamatory, abusive, offensive or otherwise improper.
  - 13.29.9.3 If submitted from Council employees or trade unions on employment matters; there are other avenues available for these to be addressed.
  - 13.29.9.4 If they would result in the release of confidential information, or which may prejudice enforcement.
  - 13.29.9.5 If they relate to a matter where there is a right of appeal against any decision of the Council.
  - 13.29.9.6 If they have been submitted by someone who has been deemed to be subject to the Management of Unreasonable Complainant Behaviour Policy and they relate to the particular subject matter for which the policy was imposed;
  - 13.29.9.7 If they are received from people who are not Barnet citizens.

### 13.30 Responses to Deputations

- 13.30.1 The Cabinet may respond to deputations in the following ways:
  - 13.30.1.1 To note the deputation and take no action.
  - 13.30.1.2 Note the deputation in consideration of the report.
  - 13.30.1.3 Ask officers to prepare a report for the next meeting (of either this committee or another relevant committee) on the deputation.
  - 13.30.1.4 Ask officers to provide a written response to the deputation.

## Part 3B1

### Appendix to Executive Procedure Rules Delegated Powers of Portfolio Holders

#### 1. Key Decisions

- 1.1 A Key Decision may not be taken by an individual Member of the Executive unless either it has been delegated to an individual Member of the Executive or it is a Key Decision on an urgent matter and is taken in accordance with 2.1.3 of this Appendix.

#### 2. Decision taking by individual Portfolio Holders

- 2.1 Where a non-key decision is to be made, individual Portfolio Holders may take those decisions in the following circumstances:

##### 2.1.1 **Matters the subject of an agreed framework, set by the Executive and on a report from an officer.**

2.1.1.1 Where the Executive has already set a clear framework for a set of decisions, the Portfolio Holder may take that framework forward into implementation.

2.1.1.2 This power is subject to:

2.1.1.2.1 The same conditions as stated above; and

2.1.1.2.2 Where the matter is controversial, or potentially controversial, the Portfolio Holder should refer the matter to the full Executive for decision.

NB - The fact that a Portfolio Holder, having considered these rules and guidance, decides to take a decision does not render that decision invalid or improperly taken if the matter is later shown to be the subject of disagreement amongst the Members of the Executive.

##### 2.1.2 **Urgent matters (non-key decisions)**

2.1.2.1 Portfolio Holders may take non-key urgent decisions within their terms of reference, provided the conditions above are satisfied.

2.1.2.2 It should be noted that where a decision is deemed to be urgent, and where Procedure Rule 17 of the Access to Information Rules has been followed, that decision will not be subject to the call-in procedure Rules provided the Chair of Overview and Scrutiny Committee agrees.

##### 2.1.3 **Urgent Matters where the Portfolio Holder is not empowered to act (Key Decisions or matters that are outside the Portfolio Holder's terms of reference.)**

2.1.3.1 When an urgent decision needs to be taken in circumstances where to wait until the next scheduled meeting of the Executive would be prejudicial to the best interests of the Council, and where a Portfolio Holder is not empowered to act under paragraph 2.1 and 2.2 above then:

2.1.3.2 The Leader, (or in his/her absence, the Deputy Leader) may, after consultation with the relevant Portfolio Holder, take the decision.

2.1.3.3 Before taking a Key Decision, the Leader (or Deputy Leader) must first consider whether the importance of the matter warrants the calling of a special meeting of the Executive.



- 2.1.3.4 The decision must be taken in a way that fully complies with the Procedural Rules of the Council and in particular, if relevant, with the rules relating to “Key Decisions”.
- 2.1.3.5 A copy of the minutes of the decision must be published within two clear working days of the decision and published on the Council’s website with electronic notification given and no hard copies circulated.
- 2.1.3.6 It should be noted that where a decision is deemed to be urgent, and where Procedure Rule 17 of the Access to Information Procedure Rules has been followed, that decision will not be subject to the call-in procedure provided the Chair of Overview and Scrutiny Committee agrees.

### **3. Temporary Arrangements**

- 3.1 In the absence of the Leader, the Deputy Leader may undertake the responsibilities and exercise the delegated powers of the Leader, to the extent permitted by the Constitution.
  - 3.2 In the absence of a Portfolio Holder the Leader may undertake the responsibilities and exercise the delegated powers of that Portfolio Holder.
  - 3.3 If a Portfolio Holder is absent for a continuing period, the Leader may, on a temporary basis, allocate the responsibilities and delegated powers of that Portfolio Holder to one or more other Portfolio Holders. If the Leader makes such an allocation they must at the time notify all Members of Council of the temporary transfer of responsibilities and power and of the likely period of such arrangements.
- 4. None of the delegated powers above authorise the taking of a decision, which either by law or by the operation of the Procedural Rules of the Council is required to be taken at a full meeting of Council.**

## Part 3C

### Committee Procedure Rules

#### 1. Application of these Rules

##### 1.1 These Rules are applicable to:

- 1.1.1 Governance, Audit, Risk Management and Standards Committee
- 1.1.2 Standards Sub-Committee
- 1.1.3 Licensing and General Purposes Committee
- 1.1.4 Licensing Sub-Committees
- 1.1.5 Employment Sub-Committee
- 1.1.6 Independent Panel and Appeals Committee
- 1.1.7 Strategic Planning Committee
- 1.1.8 Planning Committees A and B
- 1.1.9 Overview and Scrutiny Committee
- 1.1.10 Children's & Education Sub-Committee
- 1.1.11 Adults and Health Sub-Committee
- 1.1.12 Call-In Sub-Committee
- 1.1.13 Pension Fund Committee
- 1.1.14 Health and Wellbeing Board
- 1.1.15 Area Committees (East, North and West)

##### 1.2 These Rules do not apply to the procedure of Council or the Executive, which have their own Procedure Rules.

#### 2. Establishment of Committees

##### 2.1 The Council at its Annual Meeting will:

- 2.1.1 decide which Committees and Sub-Committees to establish for the Municipal Year;
- 2.1.2 decide the size and terms of reference of these Committees and Sub-Committees;
- 2.1.3 decide the allocation of seats on these Committees and Sub-Committees to the political groups in accordance with the rules on political proportionality apply to those committees;

##### 2.2 The number of Members, Independent Members Independent Persons and co-optees appointed to each Committee and the details of any sub-committees established by Committees can be found in Part 2 of the Constitution (Allocation of Responsibilities).

#### 3. Appointment of Substitutes to Committees and Sub-Committees

##### 3.1 Allocation

The Council will allocate seats on Committees, sub-committees and boards for members and substitutes.

### 3.2 **Number**

For each Committee and sub-committee, the Council will normally appoint substitutes in accordance with the wishes of the respective group leaders.

## 4. **Powers and Duties**

Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

### 4.1 **Substitution**

- 4.1.1 Where the committee have a substitute member sitting a meeting adjourned to another day shall be treated as a new meeting.
- 4.1.2 If a Substitute Member is in attendance at a meeting the ordinary member for whom they are substituting shall not be entitled to attend that meeting and take part as an ordinary member of that body.

## 5. **Attendance of Members at Committees and Sub-Committees**

### 5.1 **Right to Speak (Planning Committees)**

- 5.1.1 Members Requests to Speak at Planning Committees
- 5.1.2 Members may address a planning committee on any application, unless they have a pecuniary interest in which case they are precluded. Members should give notice to the Chair of the meeting of their intention to speak before the start of the meeting. Any Member wishing to address the Committee shall have up to 3 minutes. Members' rights to address planning committees are in addition to the rights of public speakers.
- 5.1.3 MPs and GLA Members from the borough and MPs, GLA Members and Members from neighbouring boroughs may request to address a planning committee on a matter which affects their constituency or ward. Notice should be given to the Chair of the meeting before the start of the meeting. Any such Member would be allowed up to 3 minutes.

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

- 5.2.1 Councillors may attend any Council Committee or Sub-Committee, even when they are not appointed to them, but they cannot vote and should sit with members of the public.
- 5.2.2 Apart from planning committees (see above) and Licensing Sub Committees, councillors may speak at a meeting subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent. (for Licensing Sub Committee the rights to speak are outlined in the Licensing Code) Any Councillor wishing to address the Committee or Sub-Committee shall have up to 3 minutes.
- 5.2.3 The Lead Member for Children and Adults Services has a right to address a Committee, Sub-Committee or Partnership Board for up to three minutes when it is considering matters which relate children and young people, subject to giving notice to the Chair of the meeting before the start of the meeting and the Chair giving his or her consent.

- 5.2.4 A Member (including Members appointed as substitutes by Council) will be permitted to have one matter only (with no sub-items) on the agenda for a meeting of a committee or Sub-Committee on which s/he serves. The matter must be relevant to the terms of reference of the committee. If the Head of Governance has any doubts about any Members Item for reasons of propriety, he or she may refer it to the Monitoring Officer. If the Monitoring Officer considers the Members Item to be vexatious, irrelevant, or otherwise improper, the Head of Governance will return it to the Member who submitted it as soon as possible. The Head of Governance will explain to the Member in writing why it will not be included on the agenda circulated for the meeting. This rule does not apply to planning committees and licensing sub-committees. The Head of Governance must receive written notice of a Member's Item, at least seven clear working days before the meeting. The Lead Member for Children's Services is permitted to have one matter only (with no-sub items) on the agenda for a meeting of a Committee, Sub-Committee or Partnership Board on which s/he does not serve when that body is considering an item which relates to children and young people.
- 5.2.5 A Ward Member will be permitted to have one matter only (with no sub-items) on the agenda for an Area Committee where the Member is submitting a request for CIL funding to an Area Committee Budget relating to their Ward. Members' Items for CIL funding Budget must be submitted 10 clear working days before the meeting. Items received after that time will only be dealt with at the meeting if the Chair agrees they are urgent.
- 5.2.6 Members may remain for the private part of any committee meeting.

## **6. Nominated Members**

- 6.1 Minority groups shall nominate from amongst their Members on Committees and sub-committees, a Member to be consulted by Chief Officers in the exercise of delegated powers relating to the urgency procedure. (The Urgent Non-Executive Decisions and Minor Matters is set out in Part 2F of the Constitution).
- 6.2 Nominated members must be full Members of the Committee concerned.

## **7. Charing Committees and Sub-Committees**

### **7.1 Election of a Chair and Vice Chair of a Committee or Sub Committee**

- 7.1.1 The Chairs and Vice Chairs of Committees and Sub Committees of the Council will be appointed by the Council under the Council Procedure Rules. If the Council fails to appoint a Chair for any Committee then that Committee shall appoint a Chair as the first item of business at its first meeting following the Annual Council.

### **7.2 Absence of Chair at Meetings of Committees and Sub-Committees**

- 7.2.1 In the absence of the Chair, the Vice-Chair shall preside.
- 7.2.2 If after 15 minutes since the identified start time of the Committee or Sub-Committee neither the Chair nor Vice-Chair are present then the meeting shall elect a Chair for that meeting as its first order of business.

- 7.2.3 Where the Chair and Vice-Chair have both submitted apologies in advance of the meeting to the Monitoring Officer then, without the delay mentioned above, the first order of business shall be to elect a Chair for the meeting.

## **8. Business not on the Agenda**

### **8.1 Business not on the agenda may only be considered where:**

- 8.1.1 the Access to Information Procedure Rules in Part 3E of this Constitution have been complied with; or
- 8.1.2 a member of the Committee or any Statutory Officer has requested that an item be placed on the agenda for the meeting at any time before the start of the meeting and the Chair agrees to the item being included on the grounds of urgency and the Committee agreeing to consider that item of business. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.

## **9. Late and Urgent Reports marked “to follow on the Agenda”**

- 9.1 If there is a request to publish a report on an agenda after the statutory deadline for publication, that item may only be considered if the Chair (after consulting the Nominated Member) agrees by virtue of the special circumstances set out either in the report or on the supplementary agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting.

## **10. Time and Place of Meetings**

- 10.1 Meetings of Committees and sub-committees shall take place at the place and time stated on the agenda. Following consultation with the nominated Members and subject to compliance with the Access to Information Rules, the Chair shall have the power to alter the venue, day and time if they believe it to be appropriate for the conduct of the business of the Committee, sub-committee.
- 10.2 For those sub-committees not having scheduled meetings, the date, time and place of meetings will be set by the Head of Governance/Monitoring Officer after consultation with the Chair and nominated Members of the sub-committee.

## **11. Cancellation or Postponement of Meetings**

- 11.1 The Chair, or in their absence the Vice-Chair and/or Head of Governance, may cancel or postpone a meeting of any Committee, sub-committee either before or after the agenda for the meeting has been issued provided that reasons for the cancellation are given.

## **12. Calling of Special Meetings**

### **12.1 Calling Special Meetings**

- 12.1.1 Those listed below may request the Monitoring Officer or Head of Governance to call Committee or sub-committee meetings in addition to ordinary scheduled meetings:

12.1.1.1 the Committee or sub-committee by resolution;

12.1.1.2 the Chair of the Committee or sub-committee. In relation to the Overview and Scrutiny Committee or relevant Overview and Scrutiny sub-committee, the Chair must, before requesting the Monitoring Officer or Head of Governance to call a special meeting, consult with the nominated members of each of the political groups represented on the

Overview and Scrutiny Committee or Overview and Scrutiny sub-committee;

12.1.1.3 at least one-third of the members of the Committee or sub-committee, if they have signed a requisition presented to the Chair of the Committee or sub-committee and they have refused to call a meeting or has failed to call a meeting within five clear working days of the presentation of the requisition.

## 12.2 Business

12.2.1 Business at special meetings of Committees and sub-committees shall be restricted to the items notified in the published agenda.

## 13. Notice of and Summons to Meetings

13.1 The Head of Governance will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules set out in this Constitution. At least five clear working days before a meeting, the Head of Governance will publish an agenda. The agenda will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by all relevant reports (except those marked to follow in accordance with Rule 8).

## 14. Quorum

14.1 The quorum of a meeting will be at least one quarter or three Members, whichever is the greater, of the whole number of members of the Committee or sub-committee, with the exception of the Overview and Scrutiny Committee.

14.2 The quorum for the Overview and Scrutiny Committee, and sub committees will be one quarter or three members, whichever is the greater of the whole number of Members (including co-opted voting members) AND where there are appointed co-opted voting members, the quorum shall be calculated on the total number inclusive of such co-optees.

14.3 If, after 15 minutes from the advertised time of the start of the meeting, or such other longer period as the Chair may decide, a quorum is not present, the meeting will not take place. The Chair may announce the time and date that the meeting will be convened.

14.4 During any meeting, if the Chair counts the number present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting of the Committee or sub-committee.

## 15. Closure of Meetings

### 15.1 Time of Closure

15.1.1 No business at any meeting of a Committee or Sub-Committee shall be transacted after three hours after the start time of the meeting and any business transacted after that time shall be null and void. After three hours and without further debate the Chair shall immediately put to the vote any motion or amendment, which has been formally moved and seconded.

15.1.2 At any meeting of the Strategic Planning Committee and Planning Committees, the Chair at their sole discretion may extend the period for the transaction of

business to three and a half hours after the start time of the meeting. This will be recorded in the Committee's minutes.

## **16. Deputations**

- 16.1 This Rule does not apply to Planning Committees, when considering planning applications, nor to Licensing applications, nor to the Overview and Scrutiny Committee, nor Standards Sub-Committee.
- 16.2 Any committee or sub-committee of the Council other than those excluded from the application of this Rule may receive a deputation on any matter appearing on the relevant agenda.
- 16.3 Requests for deputations must be in writing and supported by the signatures of at least five and no more than 24 citizens (deputations with more than 24 signatures will be treated under the Petition Scheme) or representatives of local organisations or businesses in Barnet. The signatories must clearly state their names and post code/qualifying education/business address. The request must explain why a deputation is required.
- 16.4 The request must be given to Head of Governance by 10am on the third working day prior to the meeting, although the Committee or sub-committee on the grounds of urgency can waive this requirement.
- 16.5 Those persons nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputation must not exceed three minutes.
- 16.6 The deputation shall be heard at the beginning of the meeting. The Chair has complete discretion to move any items that are subject to a deputation on the agenda.
- 16.7 The total time for deputations at the meeting will be no more than 20 minutes.

## **16.8 Responses to Deputations**

- 16.8.1 The Committee may respond to deputations in the following ways:
- 16.8.1.1 To note the deputation and take no action.
  - 16.8.1.2 To vote on the substantive report taking into account the deputation.
  - 16.8.1.3 Ask officers to prepare a report for the next meeting (of either this committee or another relevant committee) on the deputation.
  - 16.8.1.4 Ask officers to provide a written response to the deputation.

## **17. Public Questions and Comments**

### **17.1 Comments**

- 17.1.1 Written comments must specify the item of business on the agenda which they relate to. Committee agendas are published on the Council's website five clear working days prior to the meeting. Citizens should state their road and postcode when submitting comments. Each written comment is limited to 100 words. Written comments should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any written comments received after this time will not be considered. A citizen may submit one written comment per agenda item. Written comments will be reported to the committee and published alongside the agenda papers for the meeting.

## 17.2 Public Questions

- 17.2.1 Questions must specify the item of business on the agenda which they relate to. Committee agendas are usually published on the Council's website five clear working days prior to the meeting. Citizens should state their road and postcode when submitting questions. Each question is limited to 100 words.
- 17.2.2 Questions should be submitted in writing to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any questions submitted after this time will not be considered.
- 17.2.3 Questions will be answered by the Chair in the meeting in order of receipt, alternating between citizens. Citizens will be able to ask one supplementary question per question answered.
- 17.2.4 Questions will be published prior to the meeting. Any additional questions received will not be accepted. Citizens submitting questions are able to send a substitute to ask their question if they are unable to attend the committee meeting.
- 17.2.5 The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.
- 17.2.6 Any questions that are not answered at the meeting will be given a written response at the discretion of the Chair.

## 18. Procedure for Public Questions and Comments at Committees

- 18.1 At committee meetings a time period of up to 20 minutes is available for public questions and comments in total.
- 18.2 Questions will be asked in order of receipt.

## 19. Restrictions for Deputations, Public Questions and Comments

- 19.1 Public questions, comments or deputations are not permitted:
  - 19.1.1 If they don't relate to a substantive item on the agenda
  - 19.1.2 If they are defamatory, abusive or offensive.
  - 19.1.3 If submitted from Council employees or trade unions on employment matters; Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment with the Council.
  - 19.1.4 If they would result in the release of confidential information, or which may prejudice enforcement.
  - 19.1.5 If they relate to a matter where there is a right of appeal against any decision of the Council.
  - 19.1.6 If they have been submitted by someone who has been deemed to be subject to the Management of Unreasonable Complainant Behaviour Policy and they relate to the particular subject matter for which the policy was imposed;
  - 19.1.7 If they are received from people who are not Barnet citizens;



19.1.8 At the Strategic Planning Committee and Planning Committees on Town and Country Planning applications (a separate procedure is detailed in section 29). Public questions are permitted at the Strategic Planning Committee on planning policy matters;

19.1.9 If they relate to the making / confirmation of Tree Preservation Orders, as the procedure for making objections or representations is prescribed by the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012. The Chair of the relevant Committee or Sub-Committee, in consultation with the Head of Governance, shall decide whether any particular question, comment or issue will be permitted.

## **20. Confidential Business**

20.1 All reports, other documents, information, discussions and proceedings of a Committee or sub-committee which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all Members of the Committee or sub-committee. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the Committee or sub-committee meeting following a resolution to exclude the press and public.

## **21. Voting**

### **21.1 Majority**

21.1.1 Unless Statute or this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and seated in the room at the time the question was put. Voting shall be by a show of hands or electronic voting.

### **21.2 Chair's Casting Vote**

21.2.1 If there is an equal number of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

### **21.3 Individual Recorded Vote and Explanation for Vote**

21.3.1 If, immediately before the vote is taken, any Member present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

21.3.2 A recording of a vote or abstention in the minutes of the meeting shall be made without explanation save that in cases where it is necessary for the avoidance of ambiguity a brief note may be added at the Member's request explaining that Member's reason for voting or not voting.

### **21.4 Recorded Vote by Individual Recorded Vote**

21.4.1 If immediately before an ordinary vote is taken three Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

## **22. Minutes**

**22.1 Signing the Minutes of Committees or Sub-Committees**

22.1.1 The Chair will sign the minutes of the proceedings at the next meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that may be discussed is their accuracy.

**22.2 Minutes of Decisions of Committees or Sub-Committees**

22.2.1 Minutes of Committees or sub-committees shall be published on the Council's intranet and website.

**22.3 Production of Minutes**

22.3.1 Minutes of the meetings of Committees or sub-committees will normally be published within five clear working days of the date of the meeting.

**23. Record of Attendance**

23.1 All Members present during the whole or part of a meeting will be recorded in the minutes. If a member leaves during a meeting or joins a meeting part way through this will be recorded in the minutes.

**24. Exclusion of the Public**

24.1 Members of the public and press may only be excluded either in accordance with Rule 12 of the Access to Information Procedure Rules in Part 3E of this Constitution or under Rule 26 (Disturbance by the Public).

**25. Members' Conduct**

**25.1 Precedence of Chair**

25.1.1 When the Chair speaks during a debate, any Member speaking at the time must stop speaking. The meeting must be silent.

**25.2 Member not to be heard further**

25.2.1 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further during the consideration of that item of business. If seconded, the motion will be voted on without discussion.

**25.3 Member to leave the Meeting**

25.3.1 If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**25.4 General Disturbance**

25.4.1 If there is a general disturbance, making business impossible, the Chair may adjourn the meeting for as long as they think necessary.

**26. Disturbance by the Public**

**26.1 Removal of Member of the Public**

26.1.1 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

**26.2 Clearance of Part of a Meeting Room**

26.2.1 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

**27. Adjournment**

27.1.1 Following an order by the Chair for one or more members of the public to leave the meeting room, if they deem it necessary in the interests of public safety and for the safety of Members and officers present, the Chair may adjourn the meeting for as long as they think necessary.

27.1.2 If it is considered expedient so to do, the Chair with the agreement of the Members present may adjourn the meeting for such duration as is considered appropriate.

**28. Ruling of the Chair on Interpretation of these Rules**

28.1 The Chair's ruling on the interpretation or application of any of the Committee Procedure Rules is final.

**29. Special Rules for Planning Committees, Licensing & General Purposes Committee and Licensing Sub Committee**

29.1 The requirements set out in this Procedural Rule shall apply to Members and substitute or replacement Members serving on the Planning and/or Licensing & General Purposes Committee.

29.2 In nominating Members to serve on the Planning and/or Licensing & General Purposes Committee the political Groups will have regard to those Members of Council who have received the relevant training in the statutory roles of the Committee. A register of those Members who have completed training shall be kept by the Head of Governance and updated periodically by them as future Members are trained.

29.3 Members who are not trained may not serve on the Planning and/or Licensing & General Purposes Committee.

29.4 Where an application is recommended for refusal by the Chief Planning Officer but the Planning Committee or Strategic Planning Committee is minded to approve ('grant') the application, the application will be deferred to the next meeting of the Planning Committee or Strategic Planning Committee to enable re-notification to take place and give an opportunity for objectors to the application and the applicant to attend the subsequent meeting and make representations and for a rehearing of the application to take place.

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

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

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

- 29.8 Citizens who have requested to speak are able to send a substitute to make their representation if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing.
- 29.9 The Chair or three Members of Planning Committees A or B may refer an item to the Strategic Planning Committee for determination by indicating before any decision is made on the item that they wish to refer the item and providing reasons for the referral.
- 29.10 Where an application being considered by a Planning Committee is referred to the Strategic Planning Committee for determination, the speaking rights of members of the public who have registered to speak on the application or item will automatically transfer to the Strategic Planning Committee.
- 29.11 Speaking rights will also automatically transfer where an application has been deferred or adjourned to a future meeting of Planning Committees, but only if the speakers have not already addressed the committee on the deferred or adjourned item. In cases where the membership of the committee which considers the deferred or adjourned application is different from the committee which originally heard the application, then the application should be fully re-heard including speakers.
- 29.12 Public speaking arrangements do not apply to an item relating to the making / confirmation of a Tree Preservation Order as this would be contrary to the legislative procedure for making objections and/or representations.
- 30. Additional Rules for Overview and Scrutiny**
- 30.1 The rules below are specific to the Overview and Scrutiny Committee.
- 31. Membership of the Overview and Scrutiny Committee**
- 31.1 All Councillors except members of the Executive may be Members of the Overview and Scrutiny Committee and any Overview and Scrutiny sub-committees.
- 31.2 No member may be involved in scrutinising a decision in which they have been directly involved.
- 31.3 The Overview and Scrutiny Committee will comprise such members as the Council shall determine, including the Chairs of the Scrutiny sub-committees.
- 31.4 Members of the Overview and Scrutiny Committee will be appointed by Council in accordance with the rules on political proportionality.
- 32. Scrutiny Sub-Committees**
- 32.1 The Overview and Scrutiny Committee has appointed Sub-Committees as set out below:
- Children & Education Overview & Scrutiny Sub-Committee
  - Adults & Health Overview & Scrutiny Sub-Committee
- 32.2 Subject to Council approval, the Overview and Scrutiny Committee may discontinue any of these sub-committees and/or appoint alternative sub-committees. The Overview and Scrutiny Committee may also amend the terms of reference of the sub-committees as appropriate.
- 32.3 The terms of reference of the sub-committees are set out in the Allocation of Responsibilities in Part 2 of the Constitution.

- 32.4 Where the Overview and Scrutiny Committee seeks to discontinue or appoint sub-committees, it should consult interested parties as appropriate.
- 32.5 The Sub-Committees will comprise such Councillors as appointed by Council.
- 32.6 Membership of the sub-committees will be subject to the political proportionality rules.
- 32.7 The appointment of “church” representatives to the Children & Education Overview & Scrutiny Sub-Committee will be carried out in accordance with the requirements of Local Government Act 2000. There will be two voting parent governor representatives and two voting “church” representatives who shall be voting members of the Sub-Committee on education matters. They are entitled to speak but not vote on any other matter.
- 32.8 The appointment of parent governor representatives to the Children and Education Overview and Scrutiny Sub-Committee will be carried out in accordance with the requirements of the Parent Governor Representatives (England) Regulations 2001.
- 32.9 The sub-committees may appoint advisers to the sub-committees. Such advisers will not be members of the sub-committees and cannot vote.

### **33. The Call-In Sub-Committees**

- 33.1 The Council will appoint a Call-In Sub-Committee to consider and comment on decisions of the Executive and to process matters “called-in”.
- 33.2 The Call-In Sub-Committee will comprise five Members of the Overview and Scrutiny Committee.
- 33.3 The Rules for call-in are detailed in below and Appendix 1.

### **34. Meetings of the Overview and Scrutiny Committee and its Sub-Committees**

- 34.1 The Call-In Sub-Committee shall be convened as and when required.
- 34.2 In exceptional circumstances, the Chair, or if they are not available the Vice-Chair, may change the date or start time of any meeting, cancel or postpone any meeting or call any additional meeting by seeking and gaining the agreement of a majority of Members of the Committee.

### **35. Work Programme**

- 35.1 The Overview and Scrutiny Committee will consider its outline work programme, and that of the Overview and Scrutiny sub-committees, at its first meeting following the Annual Meeting of Council, except in years where there are whole borough elections, where the work programme will be considered at the first suitable meeting.
- 35.2 In setting the outline work programme, account will be taken of the need to scrutinise forthcoming policy, for example, the budget and other major policies or strategies in development, whilst leaving flexibility to allow additional items to be added to the agendas for committees and sub-committees and to commission task and finish group reviews during the year in response to new requests for scrutiny.
- 35.3 The Overview and Scrutiny Committee will report the agreed outline work programme to the first available ordinary meeting of the Council.

### **36. Setting the agenda for meetings**

- 36.1 The Chair of the Overview and Scrutiny Committee or the relevant Overview and Scrutiny sub-committees will be responsible for approving the agenda for each meeting.

- 36.2 The Chair of the meeting will decide on all matters of order, relevance and interpretation of these procedures.
- 36.3 The Chair will have the power to vary the order of business to give precedence to any item of business.
- 36.4 Any voting member of the Overview and Scrutiny Committee or the Overview and Scrutiny sub-committees is entitled by giving at least seven clear working days notice before the meeting to the Monitoring Officer or Head of Governance, that they wish an item relevant to the functions of the Committee or sub-committees to be included on the agenda. The Monitoring Officer or Head of Governance will ensure that the matter is included on the agenda.
- 36.5 The Overview and Scrutiny Committee shall consider whether it is appropriate to respond to requests from the Council and the Executive, to review particular areas of Council activity.

**37. Overview and Scrutiny Committee and Sub-Committees Responsibilities**

- 37.1 The role of the Overview and Scrutiny Committee and Overview and Scrutiny sub-committees 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 this Constitution.
- 37.2 Overview and Scrutiny Committee and Sub-Committees have the following powers and responsibilities:
- 37.2.1 Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.
  - 37.2.2 Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are the responsibility of the executive.
  - 37.2.3 Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive.
  - 37.2.4 Make reports or recommendations to Full Council or the Cabinet with respect to the discharge of any functions which are not the responsibility of the executive.
  - 37.2.5 Make reports or recommendations to Full Council or the Cabinet on matters which affect the borough or its inhabitants.
  - 37.2.6 Review or scrutinise the performance of anybody carrying out any function on behalf of or in partnership with the Council.
  - 37.2.7 Commission in depth evidence-based reviews via informal Task and Finish Groups.
  - 37.2.8 Produce and publish an annual report for consideration by Full Council.
  - 37.2.9 To review the policy framework, and budget of the council as set out in the Budget and Policy Framework.
- 37.3 In relation to the development of the Council's policy on matters which do not form part of the budget and policy framework, the Overview and Scrutiny Committee and/or Scrutiny sub-committees may make proposals to the Executive or the Council for developments in so far as they relate to matters within their terms of reference.

**38. Reports from Overview and Scrutiny Committee**

- 38.1 Once it has formed proposals for policy development, the Overview and Scrutiny Committee or sub-committee will prepare a formal report and submit it:
- 38.1.1 to the Executive, if the proposals are consistent with the existing budgetary and policy framework, or
  - 38.1.2 to the Executive and to the Council, if the recommendations would require a departure from or change to the agreed budget and policy framework.
- 38.2 If the Overview and Scrutiny Committee or sub-committee cannot agree on one single final report, then any two Members of the relevant committee may prepare a minority report to be submitted for consideration by the Executive or Council together with the majority report.
- 39. Consideration of Overview and Scrutiny reports by the Executive and/or the Council**
- 39.1 The Council or Executive (as appropriate) shall consider a report of the Overview and Scrutiny Committee or sub-committees within 8 weeks of it being published, or at its next meeting, whichever is the sooner.
- 39.2 Where reports are sent to the Executive or Portfolio Holder from the Overview and Scrutiny Committee or sub-committees the Executive or Portfolio Holder will have 8 weeks from the date of the reference for them to respond to the Overview and Scrutiny Committee or Scrutiny sub-committees.
- 39.3 When the Council meets to consider a matter referred from the Overview and Scrutiny Committee or Scrutiny sub-committees, it shall also consider any response of the Executive to the proposals of the Overview and Scrutiny Committee or Scrutiny sub-committees.
- 40. Rights of Overview and Scrutiny Committee Members to Documents**
- 40.1 The rights of access to documents of Members of Overview and Scrutiny Committees and Sub-Committees are set out in Rule 23 of the Access to Information Rules (Part 3E of this Constitution).
- 41. Holding Members and Chief Officers to Account**
- 41.1 In fulfilling the scrutiny role, the Overview and Scrutiny Committee and Scrutiny sub-committees may require the Leader of the Council and any other member of the Executive or Chief Officer to attend before the Committee to explain:
- 41.1.1 any particular decisions or series of decisions;
  - 41.1.2 the extent to which the actions taken implement Council policy; and/or
  - 41.1.3 their performance.
- 41.2 Where required to attend, it is the duty of that Member or Chief Officer to do so subject to them having been given reasonable notice.
- 41.3 Where the account to be given to the Committee or sub-committee will require the production of a report, the Member or Chief Officer concerned will be given sufficient notice to allow for the preparation of that documentation.
- 41.4 Where, in exceptional circumstances, the Member or Chief Officer is unable to attend on the required date, the Monitoring Officer or Head of Governance, in consultation with the Chair and the Member or Chief Officer concerned, shall arrange an alternative date for attendance.

**42. Attendance at the Overview and Scrutiny Committee and Scrutiny Sub-Committees**

- 42.1 The Overview and Scrutiny Committee and Scrutiny sub-committees may invite any other person to address the Committee or sub-committees. It may, for example, wish to discuss issues of local concern with citizens, partners, Members and officers from other public sector or private sector organisations.
- 42.2 The Overview and Scrutiny Committee or Scrutiny sub-committees may invite any person to attend, but attendance (except for Chief Executives of Health Authorities) is entirely optional.

**43. Call-in**

- 43.1 Call-in is the process whereby a key decision of the Executive, Officer, Portfolio Holder or any Joint Committee (where it has taken a decision delegated to it by the Executive) taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. They may recommend that the Executive reconsider the decision. For the avoidance of doubt a decision may only be subject to the call-in procedure once.
- 43.2 **The process for call-in**
- 43.3 Five Members of the Council can call in a decision of the Executive, which has been taken but not implemented.
- 43.4 Decisions of the Executive shall not be implemented for 5 clear working days following the publication of the decision and a decision can only be called in during this period. This Rule does not apply to urgent decisions. The notice of the decision will state the date on which the decisions may be implemented if not called in.
- 43.5 Call-in must be by notification to the Monitoring Officer or Head of Governance in writing signed by all five Members.

**44. Requirement to Give Reasons**

- 44.1 A notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:
- 44.1.1 inadequate consultation with stakeholders prior to the decision;
  - 44.1.2 the absence of adequate evidence on which to base a decision;
  - 44.1.3 the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
  - 44.1.4 the action is not proportionate to the desired outcome;
  - 44.1.5 a potential human rights challenge, failure to consider the public sector equality duty or not in accordance with or which undermines the Council's corporate parenting responsibilities;
  - 44.1.6 insufficient consideration of legal and financial advice.
  - 44.1.7 The decision was a key decision and not labelled as such.

**45. Referral to the Call-In Sub-Committees**

- 45.1 Once a notice invoking the call-in procedure has been received the decision may not be implemented until the designated members (as defined in Appendix 1) have considered the guidance outlined in Appendix 1 and if required, the Call-In Sub-Committee has considered the decision. The Monitoring Officer or Head of Governance shall in



consultation with the Chair arrange a meeting of the Call-In Sub-Committee to be held within seven clear working days of the receipt of the request for call-in.

- 45.1.1 Where the Call-In Sub-Committee fails to meet within seven clear working days of the call-in request being received by the Monitoring Officer, the decision may be implemented on the day following twelve clear working days from the date the decision was published.
- 45.1.2 Where the Call-In Sub-Committee meets within seven clear working days of the receipt of notification of a call-in request, but fails to refer the matter back to the Executive or Joint Committee, the decision may be implemented on the day following the Call-In Sub-Committee meeting.
- 45.1.3 No Member who has signed a call-in notice may sit as a member of the Call-In Sub-Committee which considers that call-in notice.

#### **46. Process for Consideration of Called-in Items at the Call-In Sub-Committee**

- 46.1 The Call-In Sub-Committee will consider the decision and the reasons for call-in. The Sub-Committee may invite the relevant Cabinet Member and a representative of those calling in the decision to provide information at the meeting.
- 46.2 The Sub-Committee may come to one of the following conclusions:
  - 46.2.1 that the challenge to the decision should be taken no further and the decision may be implemented;
  - 46.2.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework, and should therefore be referred to the Council. In such a case the Call-In Sub-Committee must set out the nature of its concerns for Council; or
  - 46.2.3 that the matter should be referred back to the decision taker (i.e. the Executive or Joint Committee) for reconsideration. In such a case the Call-In Sub-Committee must set out the nature of its concerns for the decision taker/Executive.

#### **47. Referral - Back under Rule**

- 47.1 In the event of a referral-back, the Executive or Portfolio Holder must reconsider the decision within ten clear working days of that referral or at the next meeting of Cabinet. The original decision may then be confirmed or amended in the light of the comments of the Call-In Sub-Committee.

#### **48. Referral to Council**

- 48.1 In the event that the Call-In Sub-Committee refers the matter to Council, the decision shall be discussed at the next ordinary meeting of Council.
- 48.2 The Council when considering the matter may conclude:
  - 48.2.1 that the challenge to the decision should be taken no further and the decision may be implemented;
  - 48.2.2 that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget and cannot therefore be implemented; or

- 48.2.3 that the matter should be referred back to the Executive, Portfolio Holder, officer or Joint Committee for reconsideration. In such a case the Council must set out its reasons for the referral; or
- 48.2.4 acknowledge that the decision is contrary to the policy framework, or contrary to or not wholly in accordance with the budget framework, but approve an amendment to the particular policy or budget to allow the decision to be implemented.

**49. In the event of a referral back to the Executive**

- 49.1 The Executive must reconsider the decision at its next meeting (consideration should be given to the holding of a special meeting if the issue is considered to now be sufficiently urgent). The Executive can either:
  - 49.1.1 confirm the original decision and report back to the next meeting of the Overview and Scrutiny Committee;
  - 49.1.2 amend or alter the decision in the light of the comments of the Call-In Sub-Committee and report back to the next meeting of the Overview and Scrutiny Committee or sub-committee.
- 49.2 The decision may be implemented as soon as the original Executive decision is confirmed or amended by the decision taker.

**50. Call-in and Urgency**

- 50.1 The call-in procedure set out above shall not apply where the decision being taken by the Executive is an urgent decision. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.
- 50.2 The record of the decision, and notice by which it is made public, shall state that the matter is considered one of urgency, and will thus not be subject to call-in.
- 50.3 The Chair of the Overview and Scrutiny Committee must agree that the decision proposed is reasonable in the circumstances and should be treated as a matter of urgency.
- 50.4 In the absence of the Chair of the Overview and Scrutiny Committee, the consent of the Vice-Chair of the Overview and Scrutiny Committee is required.
- 50.5 Decisions taken, as a matter of urgency must be reported by the Monitoring Officer to the next available meeting of the Council, together with the reasons for urgency.

**51. Task and Finish Group Reviews**

- 51.1 Overview and Scrutiny Committee may conduct reviews via informal Task and Finish Groups but the findings must be reported back to the relevant Committee or Sub-Committee.
- 51.2 In conducting Task and Finish Groups they may also ask people to attend to give evidence at their meetings.
- 51.3 Task and Finish Groups will be carried out in accordance with the principles set out in the Protocol for Member/Officer Relations in Part 5 of the Constitution.
- 51.4 Following any Task and Finish Group review, a report will be submitted to the relevant Committee or sub-committees for onward submission to the Executive.

## Appendix 1

### Part 3C1

#### Overview and Scrutiny Sub-Committees Call-In Procedure: Guidance

This Guidance is written for all members to consider when calling in a decision made by the Executive. The Guidance has been prepared to prevent abuse of the call-in process, and to promote the efficient use of the Council's resources.

The Overview and Scrutiny Committee shall delegate authority to the designated Members (see below) to consider requests for Call-In received in accordance with the Council's constitution, except where either or both of the designated Members have signed the call-in notice (see below).

In the event that the designated Members fail to reach agreement on whether a request should be called in, the request for a Call-In shall automatically pass to the Call-In Sub-Committee for consideration.

#### (1) Call in by Members of Council

The Guidance will be relied upon by the Chair and Vice Chair of the Overview and Scrutiny Committee. These Members will be the designated Members for the purpose of this Guidance<sup>1</sup> when considering a request for call in by Members of the Council. If either of the designated Members has signed a call-in notice they will not take part in the consideration of the request for call-in and it will be considered by the other Member alone. If both designated Members have signed a call-in notice the request for a Call-in shall automatically pass to the Call-In Sub-Committee for consideration.

#### Reasons for refusal

The designated Member(s) must ensure that the requirement to give reasons under the Committee Procedure Rules ("the Rules") as contained in the Council's Constitution is met. In the event that the requirements are met, the following guidance shall be used when considering a request for call-in to the Call-In Sub-Committee:

1. **Time limit** - A decision may only be called-in during the period of 5 clear working days from the date of publication of the executive decision.
2. **Financial and Political implications** - Only Key decisions may be called in.
3. **Duplication** - The Call-In Sub Committee should not be used when another forum or route is available to deal with concerns about an Executive decision, such as the Standards Committee or Appeals Committee
4. **Relevance** - The Call-in request must be of direct relevance to the Decision being called-in.
5. **Process** - Have the requisite 5 Members requested the call-in (for matters impacting a particular ward, a ward Councillors must be included in the 5 signatures). This guidance about ward councillors does not apply where: all ward councillors are members of the Executive, or where there are vacancies in that ward which mean that the only ward members are members of the executive at the time of the call in.

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<sup>1</sup> When the Chair and Vice-Chair of the Overview and Scrutiny Committee belong to the same political group, the designated members for the purposes of this Guidance only shall be the lead or nominated member from the next largest political group.

6. **Vexatious Requests** - Can the request be reasonably construed as vexatious having regard to tone, content, language, persistence etc.
7. A decision that can no longer be implemented should not be called in.

The list above is not exhaustive and occasionally additional and different reasons may be relied upon to reject a request for a call in. If this is the case, a review of this Guidance will be carried out to ensure that it remains up to date and of assistance to members.

The designated Member(s) should consider each of the above factors fully when considering a request for call-in, and in the event of refusal, reasons shall be provided which refer to the above categories.

## Part 3D

### Budget and Policy Procedure Rules

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**1. The Framework for Executive Decisions**

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

**2. The Process for the Development of the Budget**

**Timetable and consultation**

- 2.1 Before the publication of any draft budget proposals, the Executive shall agree a timetable for the consideration of the budget. The timetable shall accord with these Rules, statutory requirements and shall also detail the process for consultation on the budget with local stakeholders and others.
- 2.2 The Executive shall then arrange appropriate consultation on these draft budget proposals with local stakeholders and others. Details of the consultation process shall be included in the Forward Plan of the Authority.

**3. Reference to the Overview and Scrutiny Committee**

- 3.1 The draft budget proposals of the Executive shall also be referred to the Overview and Scrutiny Committee for advice and consideration. A copy of the proposals shall be sent as soon as available to all members of that Committee.
- 3.2 The Overview and Scrutiny Committee may conduct further consultation as it considers appropriate except that this should not duplicate any consultation already carried out or proposed to be carried out by the Executive and should not delay the timetable set out by the Executive.
- 3.3 The Overview and Scrutiny Committee shall report to the Executive on the outcome of their consideration of the draft budget proposals and may make such recommendations, as it considers appropriate. The Executive must consider any report or recommendations made by the Overview and Scrutiny Committee before it submits its budget to the Council for approval. When making its report to the meeting of the Council on the budget the Executive must state how it has taken into account any recommendations from the Overview and Scrutiny Committee.

**4. Consideration of the budget by the Council**

- 4.1 The Council may:
- 4.1.1 adopt the budget proposals of the Executive;
  - 4.1.2 amend them;
  - 4.1.3 refer them back to the Executive for further consideration.
- 4.2 A decision by Council to adopt the proposals comes into effect immediately.
- 4.3 A decision to amend or refer back the proposals shall come into effect after five clear working days from the day on which the Council meeting makes its decision unless the procedure in 4.5.1 below is invoked by the Leader.
- 4.4 In circumstances where the Executive budget proposals have been amended and before the expiry of the five clear working days period, the Leader of the Council may give notice to the Monitoring Officer that they object to some or all of the amendments made by the Council. The decision of the Council shall not then come into effect until the completion of the procedure in sub-paragraph 4.5.1 below.

- 4.5 When the Leader of the Council gives notice to the Monitoring Officer under sub-paragraph 4.5.1 below or where the Council has decided to refer the budget back to the Executive the Monitoring Officer or Head of Governance shall:
- 4.5.1 arrange for a meeting of the Executive to consider the proposals made by the Council. The Executive may:
    - 4.5.1.1 agree with the proposals of Council;
    - 4.5.1.2 reject the proposals of Council;
    - 4.5.1.3 make further amendments;
    - 4.5.1.4 agree some and reject some of the proposals of Council.
    - 4.5.1.5 following the meeting of the Executive, convene a further meeting of Council to give further consideration to the budget. The further meeting of the Council shall be called for the day that is not more than 14 calendar days nor less than 7 calendar days after the giving of notice by the Leader, and shall commence at the time set out on the agenda, unless agreement is reached by the Chair and the Leaders of all political groups on the Council to an alternative date or time.
- 4.6 The Council at its further meeting to consider the budget can agree the proposals of the Executive or can amend the proposals. Their decision is then effective immediately.
- 5. Budget variation**
- 5.1 When approving the budget the Council shall also specify the extent of controls (if any) on the use of contingencies and reserves which may be undertaken by the Executive in accordance with paragraph 15 of these Rules. The Executive may not make any other changes to the budget determined by the Council.
- 6. After setting the budget**
- 5.2 As soon as practicable after the determination of the budget the Executive shall publish and make available to the public information on the budget determined for the following Municipal Year.
- 7. The Process for the Development of the Policy Framework**
- 7.1 Timetable and consultation**
- 7.1.1. The plans and strategies which comprise the policy framework are set out in Article 3:
    - 7.1.1.1 At the start of each Municipal Year the Executive will determine a timetable for the preparation and consideration of the plans and strategies referred to in (a) above that are required to be made in that year. The timetable will detail the meeting of the Executive which it is expected that the plan or strategy will be agreed for recommendation to Council, the meeting of the Overview and Scrutiny Committee to which the matter is to be referred (see paragraph 8 below) and the date of the Council meeting at which the recommendation will be considered.
    - 7.1.1.2 The Executive shall arrange appropriate consultation on the proposed plans and strategies with local stakeholders and others as determined

by the Executive. Details of the consultation process shall be included in the Key Decision Schedule (Forward Plan) of the Authority.

## **8. Reference to the Overview and Scrutiny Committee**

- 8.1 A copy of any proposed plan or strategy which is part of the policy framework shall also be referred to the Overview and Scrutiny Committee in sufficient time for the proposals to be included in the agenda for a scheduled meeting of the Committee, and for the Committee to make a report or recommendations to the meeting of the Council that is to consider the plan or strategy concerned. The Council shall not agree a plan or strategy until the Overview and Scrutiny Committee has had the opportunity to consider the proposals, subject to the need for statutory deadlines to be met.

## **9. Consideration by the Council**

- 9.1 The Council may:

- 9.1.1 adopt the proposals of the Executive;
- 9.1.2 amend them;
- 9.1.3 refer them back to the Executive for further consideration; or
- 9.1.4 substitute its own proposals in their place.

- 9.2 A decision of the Council to adopt the proposals comes into effect immediately.

- 9.3 A decision to amend, refer back or substitute the proposals shall come into effect after five clear working days from the day on which the Council meeting makes its decision, unless the procedure in sub-paragraph 9.4 below is invoked by the Leader.

- 9.4 In circumstances where the plan or strategy has been amended or substituted and before the expiry of the five clear working days period, the Leader of the Council may give notice to the Monitoring Officer that they object to some or all of the amendments made by the Council. The decision of the Council shall not then come into effect until the completion of the procedure in sub-paragraph 9.5 below.

- 9.5 When the Leader of the Council gives notice under sub-paragraph 9.4 above to the Monitoring Officer or where the Council has decided to refer the matter back to the Executive for further consideration, the Monitoring Officer shall refer the matter to the next scheduled meeting of the Executive. The Executive may agree the proposals of the Council, reaffirm its original proposals, or make further amendments. The decision of the Executive shall then be referred back to the Council. The Council can agree the proposals of the Executive or amend the proposals. The decision reached by the Council then has immediate effect.

## **10. Variation**

- 10.1 When approving any plan or strategy the Council shall also specify the extent of variation within the plan or strategy that may be undertaken by the Executive in accordance with paragraph 15 of these Rules. The Executive may only make such other changes to a plan or strategy as have been agreed by the Council.

## **11. After Council determination**

- 11.1 After the plan or strategy has been determined by the Council the Executive shall publish and make available to the public information on the contents of the plan or strategy. The plan or strategy shall also be made available for public inspection and included on the Council website, and copies made available at reasonable cost.



**12. Decisions Outside the Budget or Policy Framework**

- 12.1 Subject to the provisions of paragraph 14 (Virement), the Executive, individual members of the Executive, and any officers or joint arrangements discharging executive functions, may only take decisions, which are in accordance with the budget or policy framework. If any of these bodies or persons wishes to take 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.
- 12.2 Any member of the Council or a Committee or sub-committee of the Council wishing to raise a question as to whether any decision made or likely to be made by the Executive is contrary to the policy framework or contrary to or not wholly in accordance with the budget, shall refer the question to the Monitoring Officer and/or the Chief Financial Officer as appropriate. If either of these officers considers that the decision made or likely to be made is contrary to the policy framework or contrary to or not wholly in accordance with the budget they shall immediately inform the Chair of the body making the decision or the individual making the decision. The decision may not then be implemented and must be referred to the Council for decision.
- 12.3 The Monitoring Officer or Chief Financial Officer may conclude that a decision made or likely to be made is contrary to the policy framework or contrary to or not wholly in accordance with the budget without it first being raised by a Councillor, a Committee or sub-committee. They must then inform the relevant Chair or individual decision-taker and the decision may not then be implemented and must be referred to the Council for decision.
- 12.4 This Rule shall not apply where a decision has been taken within the exception permitted by paragraph 13 below.

**13. Urgent Decisions Outside the Budget or Policy Framework**

- 13.1 The Executive, individual member of the Executive or officers or joint arrangements discharging Executive functions may take a decision which is contrary to the policy framework or contrary to or not wholly in accordance with the budget, if the decision is a matter of urgency.
- 13.2 Such a decision on grounds of urgency may, however, only be taken:
- 13.1.1 if it is not practical to convene a quorate meeting of the full Council; and
  - 13.1.2 if the Chair of the Overview and Scrutiny Committee or in his/her absence the Mayor, or in the absence of both, the Deputy Mayor, agrees in writing that the decision is a matter of urgency.
  - 13.1.3 The reasons why it is not practical to convene a quorate meeting of the Council and the consent of the Chair of the Overview and Scrutiny Committee or Mayor or Deputy Mayor must be noted on the record of the decision.
  - 13.1.4 Following the decision, the body or person taking the decision will report to the next meeting of the Council, explaining the decision, the reasons for it, and why it was treated as a matter of urgency.

**14. Virement**

14.1 The Virement Policy is contained within the Financial Regulations.

**15. In-year Changes to the Budget and Policy Framework**

15.1 No changes may be made to the budget or policy framework by the Executive, individual members of the Executive, or officers, or joint arrangements discharging Executive functions except those:

15.1.1 which are necessary to ensure compliance with the law, ministerial direction or government guidance;

15.1.2 in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

15.1.3 permitted under the Financial Regulations (additions in year to the capital programme).

**16. Call-In Decisions Outside the Budget or Policy Framework**

16.1 Where the Overview and Scrutiny Committee is of the opinion that an Executive decision would be, or if made is, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

16.2 In respect of functions, which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be sent to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the officer's report and prepare a report to Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure from the Budget and Policy Framework, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure from the Budget and Policy Framework.

16.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is, or would be contrary to, the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. At the meeting the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may:

16.3.1 endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

16.3.2 amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or

- 16.3.3 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, the Executive is required to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer or both.

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## **1. Scope**

### **1.1. Derivation**

1.1.1. These Rules implement the requirements of Sections 100A to K and Schedule 12 and 12A of the Local Government Act 1972, Sections 9G and 9GA of the Local Government Act 2000, and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

1.1.2. Rules 1 -12 apply to all meetings of:

- The Governance, Audit, Risk Management and Standards Committee
- The Council
- The Planning Committees
- The Licensing and General Purposes Committee and Sub-Committees
- The Overview and Scrutiny Committee and Sub-Committees
- Independent Panel
- Pension Fund Committee
- Health and Wellbeing Board
- Area Committees
- Any Consultative Committees established under section 102(4) of the Local Government Act 1972 & The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012
- Any sub-committees or panels of the above Committees
- Any Area-Based Forums or Committees
- Meetings of the Executive including the Cabinet, Executive (Cabinet) Committees,
- Other Statutory Committees

together referred to in these Rules as “meetings”.

1.1.3. Rules 14 - 21 apply only to meetings of the Executive, Executive Committees and executive decisions taken by individual Members of the Executive or by officers but do not apply to meetings of Consultative Forums or Advisory Panels.

## **2. Additional Rights to Information**

2.1 These Rules do not affect any more specific rights to information contained elsewhere in the Constitution or the law.

## **3. Rights to Attend Meetings**

3.1 Members of the public and representatives of the Press may attend all meetings subject only to the exceptions in these Rules. Members of the public and representatives of the Press may also attend when an individual Member of the Executive is determining a matter that is a Key Decision (see Rule 20).

## **4. Reporting of meetings**

4.1 The reporting of meetings is permitted except where the press and public are excluded under Rule 12 of these Rules.

## **5. Notice of Meetings and Key Decisions**

## **London Borough of Barnet - Constitution**

- 5.1 The Council will give at least five clear working days' notice of any meeting by publishing details of the meeting at Hendon Town Hall, The Burroughs.
- 5.2 Notice will also be given of when an individual Member of the Executive is to take a Key Decision. Key Decisions can only be taken by the Leader except where the Executive has delegated the decision to an individual Portfolio Holder.
- 5.3 At least 28 clear calendar days before a Key Decision is made, a Key Decision Schedule must be available for inspection by the public - at the offices of the Council and on the Council's website.
- 5.4 At least 28 clear calendar days before a private executive meeting, the Council must make available at the Council's office and published on the Council's website, a notice of its intention to hold the meeting in private. This notice will be included in the Key Decision Schedule and will apply to both Key and Non-Key Decisions to be taken. See Rule 12.5 for procedure.

### **6. Access to Agenda and Reports before the Meeting**

- 6.1 The Council will make copies of those agenda and reports which are open to the public available for inspection at Hendon Town Hall, and on the Council's website, at least five clear working days before the meeting.
- 6.2 Where the meeting is convened at shorter notice than set out in Rule 5, copies of the agenda and reports shall be open to inspection from the time the meeting is convened.
- 6.3 Where an item is added to an agenda, copies of which are open to inspection by the public, copies of any report for the meeting relating to the item shall be available from the time the item is added to the agenda. Nothing in this Rule requires copies of any agenda item or report to be open to inspection by the public until copies are available to Councillors. Copies of agendas and reports must be made available at the meeting.

### **7. Late Reports**

- 7.1 If there is a requirement to add an agenda item to an agenda after the statutory deadline for publication, that item may only be considered if the Chair agrees by virtue of the special circumstances set out either in the report or on the supplemental agenda, that the item should be considered as a matter of urgency and specified in the minutes of the meeting. If the report involves a Key Decision please also see paragraph 16 of these Rules.
- 7.2 This Rule does not apply to the Meetings of the full Council where Council Procedure Rule 6 applies.
- 7.3 Where a report is prepared after the agenda has been sent out the Head of Governance shall make the report available to the public as soon as the report is completed and sent to Councillors.

### **8. Supply of Copies of Agenda and Reports**

- 8.1 The Council will supply copies and make these available on the Council's website:
  - a) any agenda and reports which are open to public inspection;
  - b) any further statements or particulars necessary to indicate the nature of the items on the agenda;

- c) any other documents supplied to Councillors in connection with an item, if the Head of Governance considers it appropriate and practical;
- d) in terms of the Executive and where a Key decision is to be taken by the Leader or an individual Members where this has been delegated to them by the Executive, when a copy of the report for a meeting is made available for inspection by members of the public, at the same time – a copy of a list compiled by the Proper Officer of the background papers to the report, must be included in the report and at least the title of each of the documents included in that list and a copy of the document to be made available on the Council's website.

## **9. Access to Minutes and Committee Documents after the Meeting**

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

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

## **10. Background Papers**

10.1 List of Background Papers - The Chief Officer responsible for the drafting of a report (or in the case of joint reports, the first named Chief Officer) shall set out in the report a list of those documents (called the background papers) relating to the subject matter of the report which in his/her opinion:

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

but will not include in such list published works or those which disclose exempt or confidential information (as defined in Rule 12) and in respect of reports to a meeting of the Executive, any advice given by a political advisor.

10.2 Public Inspection of Background Papers - The Council will make available for public inspection for at least four years after the date of the meeting a copy of each of the documents on the list of background papers. In the case of the Executive, the background papers will also be available on the Council's website.

## **11. Summary of the Public's Rights**

11.1 A written summary of the public's rights to attend meetings and to inspect and copy documents is included in paragraph 3 of the Summary and Explanation in this Constitution.

## **12. Exclusion of Access by the Public and Press to Meetings**

### **12.1 Confidential Information - requirement to exclude the public from a meeting**

12.1.1 The public and press must be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

**12.2 Exempt Information – discretion to exclude the public and press from a meeting**

12.2.1 The public and press may be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.

12.2.2 When the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

12.2.3 Extract from Article 6 ‘Right to a fair trial - in the determination of his or her civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time.’

**12.3 Meaning of Confidential Information**

12.3.1 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

**12.4 Meaning of Exempt Information**

12.4.1 Exempt information means information falling within the following seven categories (subject to the relevant condition)

Category	Condition
1. Information relating to any individual	Information falling within paragraph 1 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual	Information falling within paragraph 2 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)  “Financial or business affairs” includes contemplated as well as past or current activities.	Information falling within paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.  Information falling within paragraph 3 is not exempt information if it is required to be registered under a) the Companies Act 1985 b) the Friendly Societies Act 1974 c) the Friendly Societies Act 1992



Category	Condition
	<p>d) the Industrial and Provident Societies Act 1965 to 1978</p> <p>e) the Building Societies Act 1986</p> <p>f) the Charities Act 1993</p>
<p>4. Information relation to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.</p>	<p>Information falling within paragraph 4 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.</p> <p>“Labour relations matter” are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act or any dispute about a matter within this paragraph.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information falling within paragraph 5 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes</p> <p>a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person</p> <p>or</p> <p>b) to make an order or direction under any enactment</p>	<p>Information falling within paragraph 6 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information falling within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

12.4.2 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

**12.5 Procedures prior to Private Meetings of the Executive**

12.5.1 At least 28 clear days before a private meeting, the Council must -

- a) make available at Hendon Town Hall a notice of its intention to hold the meeting in private; and
- b) publish that notice on the Council's website.

12.5.2 The notice must include a statement of the reasons for the meeting to be held in private.

**12.6 At least five clear days before a private meeting, the Council must -**

- a) make available at Hendon Town Hall a further notice of its intention to hold the meeting in private;
- b) publish that notice on the Council's website.

**12.7 This further notice must include:**

- a) a statement of the reasons for the meeting to be held in private;
- b) details of any representations received by the Council about why the meeting should be open to the public;
- c) a statement of its response to any such representations.

**12.8** Where the date by which a meeting must be held makes compliance with this paragraph impracticable, the meeting may only be held in private where the Council has obtained agreement from:

- a) the Chair of the relevant Overview and Scrutiny committee;
- b) or if the Chair of the relevant Overview and Scrutiny committee is unable to act, the Mayor;
- c) where there is no Chair of either the relevant Overview and Scrutiny Committee or the Mayor is not available, the Deputy Mayor may give agreement.
- d) Where there is no Chair or Mayor or Deputy Mayor, the Vice-Chair of the relevant Overview and Scrutiny Committee will may give agreement

**12.9** As soon as reasonably practicable after the Council has obtained agreement to hold a private meeting, it must:

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

**13. Excluding Public Access to Reports**

13.1 The public may be denied access to reports if the Chief Officer responsible for drafting the report believes that the report relates to matters which, in accordance with Rule 12, will not be considered in a public meeting. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

**14. Procedure before taking Key Decisions**

14.1 Subject to Rule 16 (general exception) and Rule 17 (special urgency), a Key Decision may not be taken unless:

- a) the “Key Decision Schedule” has been published in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication at the Hendon Town Hall and the Council’s Website of the Key Decision Schedule;
- c) where the decision is to be taken at a meeting of the Executive, a notice of the meeting has been given in accordance with Rule 5 (notice of meetings) and a written report providing all relevant and necessary information has been considered by the body taking the decision; and
- d) where the decision is to be taken by an individual Member of the Executive at least five clear working days have elapsed following receipt of the report required under Rule 20.1 and notice of the consideration of a Key Decision has been given under Rule 5 (notice of meetings) and in accordance with (b) above.

**15. The Key Decision Schedule (KDS)**

**15.1 Period of the Key Decision Schedule**

- 15.1.1 The KDS will be prepared by the Head of Governance to cover a period of three months and published 28 clear days prior to the decision being taken by that meeting.
- 15.1.2 The KDS must be published at least 28 clear days before the date of the meeting taking that Key Decision.

**15.2 Contents of the Key Decision Schedule (KDS)**

- 15.2.1 The KDS will contain matters which the Monitoring Officer/Head of Governance believes will be the subject of a Key Decision to be taken by the Executive or under joint arrangements. Items which relate to the discharge of an Executive function must be included, but other items may be included. It will describe the following particulars in so far as the information is available:
  - a) the matter in respect of which a decision is to be made;
  - b) where the decision taker is an individual, their name and title, if any, and where the decision taker is a body, its name and a list of its Members;
  - c) the date on which, or the period within which, the decision is to be made;
  - d) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the Key decision is to be made;
  - e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - f) a list of the other documents relevant to those matters that may be submitted to the decision maker;
  - g) The procedure for requesting details of those documents (if any) as they become available.

**16. General Exception**

- 16.1 If a matter which is likely to be a Key Decision has not been included in the Key Decision Schedule, then subject to Rule 17 (special urgency), the decision may still be taken if:

- a) the Monitoring Officer has informed by written notice the Chair of the Overview and Scrutiny Committee, or if there is no such person available, each Member of that Committee, by notice in writing of the matter to which the decision is to be made;
- b) the Monitoring Officer has made available to the public at the Hendon Town Hall on the Council's website, a copy of that notice; and
- c) at least five clear working days have elapsed following the day on which the Monitoring Officer complied with (b).

16.2 Any such decision taken by the Executive must be taken in public unless it relates to a matter which is confidential or exempt pursuant to paragraph 12 above.

## **17. Special Urgency**

17.1 If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision maker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if that Chair is unable to act, then the agreement of the Mayor, or in their absence the agreement of the Deputy Mayor is required.

17.2 Any such decision taken by the Executive must be taken in public unless it relates to a matter, which is confidential or exempt pursuant to paragraph 12 above.

17.3 As soon as reasonably practicable after agreement has been obtained, the decision maker must make available at Hendon Town Hall a notice setting out the reasons for urgency and publish the notice on the Council's website.

## **18. Requirement for a Report to be made to Council**

### **18.1 Request from the Overview and Scrutiny Committee**

18.1.1 If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was not included in the Key Decision Schedule, they may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for it, the name of the decision maker and the Executive's reasons for its opinion that the decision was not key.

### **18.2 The timing of the report to Council**

18.2.1 The Executive will prepare a report for submission to the Council at such intervals as may be determined by the Council. The report to Council will set out particulars of each decision, and a summary of the matters in respect of which each decision was made. The Leader must submit at least one report on special urgency annually, unless otherwise determined by the Council.

### **18.3 Requirement for quarterly reports on special urgency decisions**

18.3.1 In any event the Leader of the Council will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **19. Record of Decisions**

19.1 After the meeting of the Executive or any of its Executive (Cabinet) Committees, Advisory Panels or Consultative Forums, the Head of Governance or a Chief Officer present, will

produce as soon as practicable and make available for inspection by members of the public and on the Council's website:

- a) a record of the decisions taken;
- b) a statement of the reasons for each decision; and
- c) any alternative options considered and rejected at that meeting
- d) a record of any conflict of interest declared by any Executive Members and a note of any dispensation granted.

## **20. Key Decisions taken by Individual Members of the Executive or by Officers**

### **20.1 Reports**

20.1.1 A Key Decision shall not be taken by an individual Member of the Executive or by an officer until twenty eight clear days after the publication of the Key Decision Schedule and five clear working days have elapsed from receipt of a report which includes relevant and necessary information for the making of the decision.

### **20.2 Provision of copies of reports to the Overview and Scrutiny Committee**

20.2.1 On the giving of such a report to an individual decision maker, the person preparing the report will at the same time give a copy to the Chair of the Overview and Scrutiny Committee and make it publicly available.

### **20.3 Notice of the Decision**

20.3.1 Notice of the taking of a Key Decision by an individual Member or officer shall be given in the same way as a notice of a meeting of the Executive (Rule 5). Members of the public and representatives of the Press may attend the taking of a Key Decision by an individual Member.

## **21. Record of Individual Decisions**

21.1 As soon as reasonably practicable after any Executive decision has been taken by an individual Member or after a Key Decision has been taken by an officer they will instruct the Head of Governance or the relevant Director to prepare a record of the decision, a statement of the reasons for it, any alternative options considered and rejected (see Rule 19), a record of any conflict of interest declared by any Executive Member and in respect of any declared conflict of interest, a note of dispensation granted.

## **22. Inspection of Documents and Background Papers**

22.1 The provisions of Rules 9 and 10 (access to documents after meetings and background papers) will also apply to the making of decisions by individual Members of the Executive and Key Decisions by officers. This does not require the disclosure of exempt or confidential information.

## **23. Overview and Scrutiny Committee – Access to Documents**

23.1 Members of Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive, Executive (Cabinet) Committee, a Portfolio Holder, and which contains material relating to:

- a) any business transacted or to be transacted at a meeting of the Executive, Executive (Cabinet) Committee; or

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- b) any decision taken by a individual Member of the Executive;
  - c) any decision that has been made by an officer of the authority in accordance with Executive Arrangements.
- 23.2 These documents should be provided by the Executive as soon as reasonably practicable and no later than 10 clear days from the Executive receiving the request.
- 23.3 No Member of the Overview and Scrutiny Committee is entitled to a copy of any such document as contains exempt or confidential information unless the information is relevant to:
- a) An action or decision that the Member is reviewing or scrutinising.
  - b) Any review contained in any programme of work of the Overview and Scrutiny Committee.
- 23.4 No Member of the Overview and Scrutiny Committee is entitled to any such document as contains advice from a political adviser.
- 23.5 Where the Executive determines that a Member of the Overview and Scrutiny Committee is not entitled to a copy of a document (for reasons under Rule 23.3) it must provide a written statement of the decision to the Overview and Scrutiny Committee.

## Part 3F

### Petition Scheme

#### 1. Petitions

- 1.1 Petitions must have a minimum of 25 signatures and be relevant to the functions of the authority. The petition will be presented to the Governance Service who will forthwith present it to the relevant Director and/or the relevant Committee Chair for information.
- 1.2 Petitions can either be submitted in hard copy to the Head of Governance or by using the authority's e-petitions facility ([e-petitions](#)). It is acceptable to combine paper petitions and e-petitions, providing the action the Council is being requested to take in the petitions are the same.
- 1.3 The address of the Head of Governance is as follows:  
Head of Governance  
London Borough of Barnet  
2 Bristol Avenue  
Colindale  
London  
NW9 4EW
- 1.4 The authority's e-petition facility can be found here: [e-petitions](#)
- 1.5 E-petitions submitted on external websites can be accepted by the council. However, petitions hosted on external websites will need to be submitted by the lead petitioner to the Head of Governance in order for the petition to be accepted.
- 1.6 Petition signatures must be from Barnet residents otherwise they will not count towards the overall signature total. Petitions signatories must provide road and postcode to enable them to be verified.
- 1.7 A petition will not be accepted if:
  - it is vexatious or abusive;
  - it relates to any enactment or statutory provision;
  - it relates to a safeguarding matter;
  - it does not contain the road and postcode of signatories;
  - it relates to a named individual or could reveal the identity of a person;
  - it does not relate to the functions of the council;
  - it is not clear what it is asking the council to do;
  - it deals with an issue that has previously been resolved
  - it is repetitive, vexatious, or requires action which is unlawful or for which another council procedure is available
- 1.8 The Head of Governance will make a ruling on whether or not to accept a petition, taking into consideration grounds for rejection as laid out above.

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- 1.9 On such an occasion where a petition is rejected, the Head of Governance (or his/her representative) will write to the lead petitioner and explain the reasons for rejection.
- 1.10 Petitions relating to planning or licensing applications, appeals or reviews will be treated as letters of representation and will be dealt with by the relevant service area and will be taken into consideration in dealing with the relevant application, appeal or review. For petitions falling within these categories, the reporting procedures below will not apply.
- 1.11 Petitions which have been submitted in response to a consultation process initiated by a specific committee should be reported back to that committee.
- 1.12 Petitions will be acknowledged within 10 working days. The acknowledgement will include information on how the petition will be progressed.

## 2 Petitions will be reported as follows:

Signatories	Authority
1 – 24	Joint statement of representation. Passed to the appropriate department.
25 – 500	Written response from the relevant Cabinet Member
501 – 3,000	Reported to Cabinet or relevant committee: Cabinet; or Area Committee; or Other Committee The Lead Petitioner will be given 3 minutes to present the petition to Cabinet or committee. Following the presentation, the Leader and Cabinet Members, or Chair and Committee Members will have an opportunity to ask the Lead Petitioner questions. After the debate Cabinet or the committee will decide to: <ul style="list-style-type: none"> <li>• Take no action</li> <li>• Refer the matter to the relevant Cabinet Member or Committee Chair to provide a written respond to Lead Petitioner within 20 working days; or</li> <li>• Instruct an officer to prepare a report for a future meeting of Cabinet or the Committee on the issue(s) raised with a recommended course of action</li> </ul>
3,001 or more	Reported to Full Council (excluding Annual Council) The petition will be considered by Full Council and the following process will be followed: <ul style="list-style-type: none"> <li>• Lead Petitioner is given five minutes to present the petition;</li> <li>• Council Members have an opportunity to ask questions of the Lead Petitioner then debate the item;</li> <li>• The relevant Cabinet Member or Committee Chair will respond to the issues raised in the petition and outline the decision route (if any) he/she proposes to take which may include: <ul style="list-style-type: none"> <li>○ Take no action</li> <li>○ Provide a written respond to Lead Petitioner within 20 working days; or</li> </ul> </li> <li>• Instruct an officer to prepare a report for a future meeting of Cabinet or a Committee on the issue(s) raised with a recommended course of action</li> </ul>

- 2.1 Petitions are required to be received seven working days before Full Council, Cabinet or the relevant Committee.



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



# London Borough of Barnet Constitution

## Part 4 – Regulations, Rules and Codes

- Part 4A - Financial Regulations
- Part 4B - Contract Procedure Rules
- Part 4B1 - Authorisation Limit – Tables A and B
- Part 4C - HR Regulations
- Part 4D - Member Code of Conduct
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- Part 4E - Member Licensing Code
- Part 4F - Member Planning Code
- Part 4G - Code of Conduct for Officer Member Relations
- Part 4H - Code of Corporate Governance
- Part 4I - Members' Allowance Scheme
- Part 4J - Protocol for Recording Decisions made by Officers
- Part 4K - Members' Rights to Access Information - Guidance and protocol
- Part 4L - Code of Recommended Practice on Local Authority Publicity
- Part 4m - Code of Conduct for Officers

## Part 4A

### Financial Regulations

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## **1. Introduction**

- 1.1 The Financial Regulations provide the framework for managing the financial affairs of the Council. These Financial Regulations should apply to all Members, officers, contractors and partners in the work they do for the Council.
- 1.2 The Executive Director of Strategy & Resources, is the Chief Finance Officer, also known as the s151 Officer, and has statutory duties in relation to the financial administration and stewardship of the Council.
- 1.3 The Financial Regulations govern the way the Council undertakes financial forward planning, annual budget setting, budget monitoring and closing of the accounts.
- 1.4 The Financial Regulations also govern the way day to day financial administration is conducted and financial controls are exercised.
- 1.5 The Scheme for Financing Schools, which follows the requirements of the School Standards and Framework Act 1998, governs School Governors, Headteachers and school staff of Maintained schools with delegated budgets. A local financial guide for schools supplements the Scheme for Financing Schools. In these cases the Financial Regulations do not apply. Each school is required to have a financial management policy and procedures document.
- 1.6 These procedures shall be reviewed regularly by the Chief Finance Officer but at least every three years.
- 1.7 The Chief Finance Officer is required to control and be responsible for the accounts and finances of the Council in every respect and ensure, as far as possible, that consistent financial systems operate throughout the entire operation of the Council.

## **2. Financial Planning and Financial Management**

### **2.1 Budget Strategy**

- 2.1.1 The Budget Strategy, sets out the Council's proposed income and expenditure both revenue and capital, and the level of council tax, for the following financial year, including the way in which corporate service priorities are considered, the level of balances and reserves, and the management of financial risks.
- 2.1.2 The Council's policies for the recovery of debt are separately approved by Cabinet
- 2.1.3 The Budget Strategy and Medium Term Financial Strategy will normally be recommended by Cabinet to Full Council for approval before the start of each financial year.

### **2.2 Medium Term Financial Strategy**

- 2.2.1 The Chief Finance Officer, in consultation with the Cabinet will maintain a Medium Term Financial Strategy that covers a period of at least three financial years, including the current financial year.
- 2.2.2 The Medium-Term Financial Strategy will be produced and reported in conjunction with the annual budget, council tax and rent proposals to Cabinet and Full Council before 11 March of the preceding financial year.
- 2.2.3 Further updates on the Medium-Term Financial Strategy may be reported during the year.
- 2.2.4 The Financial Forward Plan will cover revenue and capital budgets and will highlight how resources are being re-directed to address Corporate priorities.

2.2.5 In that the Medium Term Financial Strategy spans a number of years, it is to be expected that figures in later years will often be preliminary estimates and/or aspirations of future decisions and changes in council policy.

### 2.3 Annual Budget Setting

2.3.1 The Cabinet will publish a draft budget for consultation. Consultation will take place for any proposals that impact on residents

2.3.2 The Chief Finance Officer will set the council tax base for tax-setting purposes before 31 January of the preceding financial year and notify precepting and levying bodies of this figure by this date. The Chief Finance Officer will notify all Council Members via Cabinet and Full Council.

2.3.3 Cabinet will finalise its recommendations to Council on the revenue budget, council tax, capital programme and rent levels taking account of the results of budget consultation. This will normally be in February, following announcement of the Final Local Government Finance Settlement.

2.3.4 Cabinet recommendations to Council must be made in time for Council to set the capital and revenue budget and council tax before 11 March of the preceding financial year.

2.3.5 The Chief Finance Officer shall advise the Council whether they are able to certify that the draft Budget contains robust estimates and reserves for the purpose of meeting the requirements of Section 25 of the Local Government Act 2003.

### 2.4 General Financial Delegations

Body	Capital / Revenue	£
Cabinet	Revenue	Over 500,000
	Capital	Over, 1 million up to 25million
Portfolio holders	Revenue	213,477-500,000
	Capital	213,477- 1million
Chief Officers	Capital/ Revenue	Up to 213,477

### 2.5 Fees and Charges

2.5.1 Changes to fees and charges should be included in the budget proposals.

2.5.2 Executive side fees and charges and changes to fees and charges that impact on residents will be subject to public consultation and equality impact assessments and form part of the budget.

2.5.3 Subject to public consultation outcomes and equality impact assessments, the Full Council will approve fees and charges to take effect from January every year.

2.5.4 The relevant committee (for example, Licensing and General Purposes Committee) or Cabinet can approve in-year changes to fees and charges subject to them being reported to Council and any requirements relating to public consultation and equality impact assessments being undertaken

2.5.5 Changes to annual tenant rents and service charges for the HRA and GF must be referred to Council before tenants and leaseholders are issued with formal notices and bills ahead of the upcoming financial year.

2.5.6 The budget recommended by Cabinet or other committees + to Full Council will incorporate the latest projection of income from fees and charges.

## 2.6 Capital Programme and Budget

2.6.1 The Capital Programme has been developed following these principles;

2.6.2 To maintain an affordable five-year rolling capital programme.

2.6.3 To ensure capital resources are aligned with the Council's strategic vision and corporate priorities.

2.6.4 To undertake prudential borrowing only where there are sufficient ongoing revenue resources to pay for the costs arising from current and future borrowing.

2.6.5 To maximise available resources by actively seeking appropriate external funding and disposal of surplus assets.

## 2.7 Alternative Budget Motions

2.7.1 Any Member proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy of initial amendments to the Chief Finance Officer and Monitoring Officer as soon as possible and at least 10 clear working days before the Budget Council meeting. These initial amendments should be validated and clearly laid out including all supporting assumptions. Final completed budget amendments in a format that can be presented to Council should be submitted to the Chief Finance Officer and Monitoring Officer at least 5 clear working days in advance of the Budget Council meeting so that s/he may advise Council whether the resulting amended or alternative budget would provide robust estimates and reserves for the purpose of section 25 of the Local Government Act 2003.

## 2.8 Budget Management and Monitoring

2.8.1 Making changes to the budget

A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets but not between revenue and capital.

2.8.2 The Virement Scheme is intended to enable the Directors and their officers to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

2.8.3 Amendments to the revenue budget can only be made with approval as per the scheme of virement table below:

• Virements for allocation from contingency for amounts up to and including £250,000 must be approved by the Chief Finance Officer
• Virements for allocation from contingency for amounts over £250,000 must be approved by Cabinet
• Virements within a service in a Directorate that do not alter the approved bottom line are approved by the Service Director of that Directorate.

<ul style="list-style-type: none"> <li>• Virements between services within the same Directorate (excluding contingency allocations) must be approved by the relevant Chief Officers of that Directorate.</li> </ul>
<ul style="list-style-type: none"> <li>• Virements between different Directorates (excluding contingency allocations) up to £50,000 must be approved by the relevant Chief Officers of both Directorates.</li> </ul>
<ul style="list-style-type: none"> <li>• Virements between different Directorates (excluding contingency allocations) over £50,000 and up to and including £499,999 must be approved by the relevant Chief Officer(s) and Chief Finance Officer in consultation with the Leader and reported to the next meeting of Cabinet</li> </ul>
<ul style="list-style-type: none"> <li>• Virements between different Directorates (excluding contingency allocations) over £500,000 and up to £25m must be approved by Cabinet.</li> </ul>

2.8.4 Article 7 - Table of Chief Officers details which posts within the council are designated as Chief Officers.

2.8.5 No revenue virement is allowed between the following budgets without approval of Cabinet:

2.8.5.1 Financing charges

2.8.5.2 Rates and other taxes

2.8.6 Amendments to the capital budget can only be made with approval as per the table below:

<b>Capital Virements</b>
<ul style="list-style-type: none"> <li>• Cabinet approval is required for all capital budget and funding virements and yearly profile changes (slippage or accelerated spend) between approved capital programmes i.e., as per the budget book. The report must show the proposed:               <ol style="list-style-type: none"> <li>I. Budget transfers between projects and by year;</li> <li>II. Funding transfers between projects and by year; and</li> <li>III. A summary based on a template approved by the Chief Finance Officer.</li> </ol> </li> </ul>
<ul style="list-style-type: none"> <li>• Cabinet approval is required for all capital additions to the capital programme. Cabinet may only approve additions up to £50m additions above this should be approved by Council. All Capital additions are reviewed by senior officers prior to being recommended for approval to Cabinet. Capital additions should also be included in the quarterly budget monitoring report to Cabinet for noting.</li> </ul>
<ul style="list-style-type: none"> <li>• Funding substitutions in order to maximise funding are the responsibility of the Chief Finance Officer.</li> </ul>

## 2.9 Budget Monitoring

2.9.1 Chief Officers are required to notify the Chief Finance Officer of all underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets. Where these occur they should in the first instance be transferred to the contingency budget unless regulations specify restrictions on their use which make this inappropriate



or the under spend, additional income or other financial benefits are to be used to offset uncontrollable overspends elsewhere within the service. The chief officer is responsible for notifying the Chief Finance Officer that this is to occur. Approval to these budget variations will be in line with the scheme of virement.

## **2.10 Budget Monitoring – Revenue**

2.10.1 Chief Officers should ensure that their revenue cost centre managers do not enter into commitments before satisfying themselves there is sufficient approved budget provision. Chief Officers have no authority to overspend revenue budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.

2.10.2 It is the responsibility of Chief Officers to notify the Chief Finance Officer of forecast revenue budget or capital project overspends regardless of whether offsetting savings or additional income have been identified.

## **2.11 Budget Monitoring – Capital**

2.11.1 Forecast overspends on approved capital projects must be communicated through the Chief Finance Officer to the Leader as soon as possible with options for offsetting the forecast overspend.

## **2.12 Central Contingency**

2.12.1 The Chief Finance Officer will determine which budget risks and uncertainties are to be held within the central contingency.

2.12.2 Allocations from the central contingency relating to planned developments will be approved by the Chief Finance Officer, following the receipt from a Chief Officer of a fully costed proposal to incur expenditure that is in line with planned development (including full year effect). Where there is a significant increase in the full year effect (over £500,000), the contingency allocation must be approved by Cabinet.

2.12.3 Allocations from the central contingency for unplanned expenditure, including proposals to utilise underspends previously generated within the service and returned to central contingency, will be approved by the Chief Finance Officer. Where there are competing bids for use of under spends, additional income or windfalls previously returned to central contingency, priority will be given to the service(s) that generated that return. Allocations for unplanned expenditure over £499,999 and within the approved budget set by Council must be approved by Cabinet.

## **2.13 Balances and Reserves**

2.13.1 Allocation to and from the balances and reserves will be the responsibility of the Chief Finance Officer in line with the principles that Full Council have agreed.

2.13.2 Any significant change in the planned use of a reserve must be approved by Council

2.13.3 Budget Monitoring – reporting

The Chief Finance Officer will report in detail to Cabinet at the end of each quarter as a minimum, on the revenue and capital budgets and wider financial standing and will make recommendations for varying the approved budget (revenue and capital) where necessary.

2.13.4 Full Year Effects

In preparing any estimates of expenditure and income, Directors and Heads of Service must give proper consideration to full year effects.

**2.13.5 Annual Governance Statement**

Chief Officers must support the work on corporate risk management contributing to the production of the Annual Governance Statement that has to be published alongside the Statement of Accounts.

**2.13.6 Partnership Working**

Before entering into a partnership with another organisation that involves pooling some of the Council's revenue and/or capital budgets, the Chief Officer in consultation with the Chief Finance Officer must ensure that adequate financial controls are in place. A financial risk assessment must also be prepared and monitored over time.

**2.13.7 Authorisation of Non-Budgeted Expenditure (Emergency Payments)**

Emergency payments may arise as a consequence of unforeseen circumstances (e.g. as a consequence of a natural disaster, a civil emergency or a court order etc.) where budget provision has not been made and the payment cannot be covered within the relevant service's existing budget.

2.13.8 Emergency payments can be made by Chief Officers up to their delegated financial limit of £213,477 as set out in the council's constitution or the Leader acting as urgent Cabinet as set out in the Constitution. All such emergency payments should be reported to the next meeting of the Cabinet.

**2.14 Closing Of Accounts and Statement of Accounts**

2.14.1 The Chief Finance Officer is responsible for making arrangements for closing the Council's and the Pension Fund accounts and producing the annual Statement of Accounts, as well as all matters relating to their audit and public inspection.

2.14.2 Chief Officers are responsible for ensuring that staff adhere to the timetable and requirements set out by the Chief Finance Officer for the closing of accounts, and provide any information and evidence required in relation to this.

2.14.3 In accordance with International Standard on Auditing (ISA) 260, the external auditor is required to issue detailed reports to those charged with governance on matters arising from the audit of the Council's accounts and Pension Fund accounts. There is also an Annual Audit Letter which includes the external auditor's report and opinion on the audit of the accounts, as well as comments and recommendations on whether the Council provides Value for Money. These reports will be considered by the Governance Audit Risk Management and Standards Committee (GARMS).

**2.15 Treasury Management Framework**

2.15.1 Cabinet will create and maintain a Treasury Management Strategy Statement, stating the policies and objectives of its treasury management activities and based upon the relevant CIPFA Codes. The Treasury Management Strategy Statement will be reported to the Budget Council meeting for approval.

2.15.2 Cabinet will receive reports on its treasury management policies, practices and activities. This will also be considered by the Overview and Scrutiny Committees. These reports will incorporate the prudential borrowing limits and performance indicators. Council will

receive an annual strategy and plan in advance of the year, and an annual report after its close in the form prescribed in the Treasury Management Practices.

- 2.15.3 The Chief Finance Officer has the delegated authority to undertake all borrowing on behalf of the Council in line with the Treasury Management Strategy Statement. This authority is agreed by Council each year as part of the budget setting process when the TMSS for the forthcoming year is presented to Council for approval. All borrowing will be reported to Cabinet as part of the Capital Programme.

### **3. Financial Administration, Systems and Procedures**

#### **3.1 Accounting**

- 3.1.1 All accounting arrangements across the council shall be in a manner approved by the Chief Finance Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and national guidance.
- 3.1.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 3.1.3 All accounting should occur on the Council's Accounting System and any exceptions must be specifically authorised by the Chief Finance Officer.

#### **3.2 Banking Arrangements**

- 3.2.1 The Chief Finance Officer must approve all banking and card acquiring arrangements across the Council and must be satisfied with the safe keeping of all controlled banking stationery.
- 3.2.2 The Chief Finance Officer will maintain a register of all bank and card acquiring contracts.
- 3.2.3 The Chief Finance Officer will be responsible for ensuring that the Council's banking arrangements are reviewed on a regular basis and that the banking contract is reviewed every three years.
- 3.2.4 Chief Officers are responsible for ensuring that the any staff in their areas that use the Procurement Cards adhere to the requirements of the LBB Purchasing Card (PCard) Guide and Terms and Conditions.

#### **3.3 Assets**

- 3.3.1 Chief Officers are responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. The Chief Executive shall exercise a coordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.
- 3.3.2 Maximum limits for cash holdings (imprest accounts) shall be set by the Chief Finance Officer, which may not be exceeded without prior authority. Areas where cash is counted and held must be secure and with access restricted only to authorised staff.
- 3.3.3 Chief Officers are responsible for the sale or disposal of assets employed in their service, and for accounting for these transactions. All disposals are to be reported to the Chief Finance Officer on a quarterly basis.
- 3.3.4 Chief Officers are responsible for implementing a system for the maintenance of stocks and stores including regular stock checks and write offs when required.

### **3.4 Imprest Accounts**

- 3.4.1 The Chief Finance Officer must authorise all imprest accounts and the Imprest Account Holder must comply with the rules set by the Chief Finance Officer.

### **3.5 Income**

- 3.5.1 The Council will usually charge for all services, where allowable, and have charging policies in place.
- 3.5.2 Officers should encourage payment in advance or at point of service delivery wherever possible as per the Debt Management Policy, and minimise the amount of credit given to customers.
- 3.5.3 All records relating to income due to the Council, accounts raised, and receipts issued shall be in a format agreed by the Chief Finance Officer.
- 3.5.4 Officers responsible for controlled stationery must keep it secure. Methods of payment must be agreed by the Chief Finance Officer.
- 3.5.5 The Chief Finance Officer, or officer nominated by the Chief Finance Officer, may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Debt Management Policy.
- 3.5.6 Officers receiving monies shall keep an accurate and chronological account of all receipts and bankings.
- 3.5.7 Monies received must be banked on the day of receipt wherever possible, and not later than the next working day. All amounts paid in must be referenced to enable subsequent identification of the accounts to which they relate.
- 3.5.8 No deductions may be made from monies received.
- 3.5.9 Chief Officers must notify the Chief Finance Officer of all monies due to the Council under contracts, leases or other agreements and the cessation of use or change of user affecting this income.
- 3.5.10 Invoicing & Debt Recovery - Officers responsible for raising invoices must ensure that VAT has been properly accounted for.
- 3.5.11 The Council's Debt Management Policy, approved annually at Budget Council, sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all services within the London Borough of Barnet.

### **3.6 Insurance**

- 3.6.1 The Chief Finance Officer is responsible for maintaining the Insurance Strategy arranging adequate insurance cover for the Council and keeping comprehensive records of all risks covered and will report any changes to Cabinet.
- 3.6.2 Chief Officers must notify the Chief Finance Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 3.6.3 Any incident which could give rise to an insurance claim must be promptly notified to the Chief Finance Officer by the relevant officer, who shall also inform the Police if appropriate.

- 3.6.4 The Chief Finance Officer will handle all insurance claims, in conjunction with the Monitoring Officer and/or the insurance company if proceedings are issued.
- 3.6.5 Officers must consult the Chief Finance Officer and Monitoring Officer in all cases where the Council is requested to give an indemnity.
- 3.6.6 Officers in receipt of a motor vehicle allowance must produce registration documents, insurance policy, certificate of insurance and test certificate if required by the Chief Finance Officer. Insurance policies must be comprehensive and cover use on official business.
- 3.6.7 Schools: It is the responsibility of the governing body to ensure adequate arrangements are made for insurance against risks arising from the exercise of the community facilities power, taking professional advice as necessary. Such insurance may be funded from the school budget share.
- 3.6.8 The Council is empowered to undertake its own assessment of the insurance arrangements made by a school in respect of community facilities, and if it judges those arrangements to be inadequate, make arrangements itself and charge the resultant cost to the school. Such costs could be charged to the school's budget share.

### **3.7 Investments, Borrowing, Capital Financing & Trust Accounts**

- 3.7.1 The Chief Finance Officer shall ensure that the Council's money is properly managed and controlled in a way which balances risk with return but with the overriding consideration being given to the security and liquidity of the Council's investment.
- 3.7.2 All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or the Council's Pension Fund or in the name of nominees approved at Council.
- 3.7.3 All securities shall be held securely by the Council's bankers, or custodians approved at Cabinet.
- 3.7.4 The Chief Finance Officer shall ensure that all borrowing and, whenever applicable trust funds, are registered in the name of the Council.
- 3.7.5 The Chief Finance Officer will also provide regular monitoring reports to Cabinet and report any breaches or amendments of the Prudential Code to Council.

### **3.8 Ordering of Supplies, Works and Services**

- 3.8.1 All contracts are subject to the Contract Procedure Rules and Chief Officers must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available.
- 3.8.2 Creation of a purchase Order (PO): Once the purchase has been agreed, a purchase order must be raised on the council's accounting system.
- 3.8.3 Payment of an invoice: Authorised officers must ensure that a purchase order has been raised on the accounting system and successfully communicated to the supplier. Invoices in respect to works, supplies and services will be paid by the Central Accounts Payable Team, but only after the authorising officer has, where necessary, first receipted the supply on the accounting system.
- 3.8.4 All invoices must reference a valid purchase order number, otherwise the Central Accounts Payable Team reserves the right to refuse payment of an invoice.

- 3.8.5 To enable the Council to comply with the Late Payment of Commercial Debts Regulations, no amended invoices will be accepted and a new invoice with a revised date will be required.
- 3.8.6 The Central Accounts Payable Team will perform a three-way match against the purchase order, goods receipt and invoice, prior to making a payment. Invoices from trusted suppliers, (as advised by the Strategic Procurement Team) will only require a two-way match. Invoices that do not pass this criterion will be returned to the service for amendment.
- 3.8.7 Payments in advance: Chief Officers prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting. All payments in advance in excess of £100,000 must be notified to the Chief Finance Officer.

### **3.9 Taxation**

- 3.9.1 The Chief Finance Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council either directly, as a consequence its own activities, or indirectly, as a consequence of service delivery through external partners.

### **3.10 Amenity and Unofficial Funds**

- 3.10.1 Amenity or Unofficial Fund relates to all sums of money other than those which are required to be paid into the Council's General Bank Account (or such other account so authorised by the Chief Finance Officer) or Trust Fund monies outside the authority of the Council.
- 3.10.2 All accounts shall be opened by the Chief Finance Officer and their names shall include the name of the London Borough of Barnet and the establishment concerned.
- 3.10.3 Provided the Chief Finance Officer approves and is satisfied with accounting and security arrangements, separate accounts need not be opened for funds of small amounts.

## **4. Risk Management and Control of Resources**

### **4.1 Risk Management**

- 4.1.1 The GARMS Committee is responsible for approving the Council's risk management framework and for reviewing the effectiveness of risk management. Individual services are responsible for ensuring the proper management of risk.

### **4.2 Internal Control**

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 The Chief Finance Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 4.2.3 It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **4.3 Internal Audit**

- 4.3.1 Under the Accounts and Audit Regulations 2015 the Council has a statutory obligation to have an adequate and effective system of internal audit. The Executive Director Assurance has the delegated authority for providing and maintaining this service.
- 4.3.2 The Chief Internal Auditor is responsible for providing an internal audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS). He / she is also responsible for providing an opinion, in support of the Annual Governance Statement, on how the Council's risk management processes identify, evaluate, monitor and report that controls are operating effectively within the Council.
- 4.3.3 Internal Audit is an assurance function that provides 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.
- 4.3.4 Internal Audit has unrestricted access to all information (including records, computer files, databases, systems, property and personnel) across any service and/or activities undertaken by the Council, or partners on behalf of the Council where council information is held in order to review, appraise and report as may be necessary.
- 4.3.5 The Chief Internal Auditor shall be able to meet the Chairman of the GARMS Committee alone outside of the normal GARMS Committee meetings.
- 4.3.6 Chief Officers shall have regard to the principles of risk management, and to the Council's risk management policy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the council's arrangements for risk management.
- 4.3.7 The Chief Internal Auditor shall report to the Chairman of the Audit Committee all significant concerns that he/she may have over the adequacy and effectiveness of internal controls and risk management activities within the organisation.

### **4.4 Corporate Anti-Fraud Team (CAFT)**

- 4.4.1 Under Section 151 of the Local Government Act 1972 the Council has a statutory obligation to ensure the protection of public funds and to have an effective system of prevention and detection of fraud and corruption. The Executive Director Assurance has the delegated authority for providing and maintaining this service.
- 4.4.2 **Objective & Scope**
- The CAFT is an independent, objective activity designed to add value and improve the Council's operations. It helps the Council achieve its objectives by bringing a systematic, disciplined approach to investigation, evaluating and improving the effectiveness of fraud prevention and detection and the subsequent prosecution of individuals and organisations where appropriate. The Council has a zero tolerance approach to fraud and other irregularity.
- 4.4.3 The objective of the CAFT is to assist officers and Members in the effective discharge of their responsibilities. To this end, the CAFT furnishes them with assurance, analysis, appraisals, recommendations, counsel, and information concerning the activities it is required to become involved with. The objective includes promoting fraud awareness across the authority.

4.4.4 The scope of the CAFT encompasses both the investigation and examination of the effectiveness of the council's systems of fraud control when subject to breach.

4.4.5 Responsibility & Authority

The primary responsibility for the awareness, prevention, detection and deterrence of fraud, corruption, bribery or money laundering activity lies with the Chief Officers. This responsibility includes ensuring that staff and partners are aware of both the implications of fraud and money laundering and the risks of fraud and money laundering across their service area. The primary responsibility for the investigation of any suspected fraud, corruption, bribery or money laundering activity found in a service area lies with the CAFT. All details must be immediately forwarded to the CAFT, to preserve the chain of evidence linked to such investigations within the law.

4.4.6 CAFT have unrestricted access to all council held information and records (including computer files, databases, systems, property and personnel) across any service and/or activities undertaken by the Council, or partners on the behalf of the Council, in order to effectively carry out their duties.

4.4.7 CAFT or other authorised representative shall have authority to:

4.4.7.1 Enter or visit any land, premises, offices or establishments of the Council;

4.4.7.2 and carry out any necessary searches of the aforementioned;

4.4.7.3 have unrestricted access to, access, view, search, and remove any and all records, documents and correspondence, including electronically held correspondence, documents and records, and property and assets of the Council;

4.4.7.4 where requested by CAFT view only access to specific databases/systems which hold council data;

4.4.7.5 receive such explanations as are necessary concerning any matter under examination, and / or fraud investigation;

4.4.7.6 in conjunction with the relevant Chief Officer, suspend any employee of the Council under CAFT investigation from duty: acting in accordance with the Council's disciplinary procedures; and, in cases concerning illegal working, employees may be exited from the organisation and/or may be suspended without pay pending investigation;

4.4.7.7 require any employee of the Council to produce and surrender any cash, stores, equipment or any other Council property under his or her control;

4.4.7.8 interview any and all employees and individuals in connection with investigations including where necessary interviews in accordance with the Police & Criminal Evidence Act (on tape).

**4.5 External audit**

4.5.1 Public Sector Audit Appointments (PSAA) Limited (replaced the Audit Commission with effect from 1 April 2015) is responsible for appointing external auditors for each authority who has opted in to the PSAA scheme for auditor appointments. The duties of the external auditor are governed by section 5 of the Audit Commission Act 1998.

4.5.2 External auditors have a responsibility to satisfy themselves that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources and value for money.. The Chief Finance Officer, in conjunction with Chief



Officers, must ensure that the Council makes best use of resources and taxpayers and / or service users receive value for money.

- 4.5.3 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

## **5. Trading Accounts**

- 5.1 It is the responsibility of the Chief Finance Officer to advise on the establishment and operation of trading accounts and business units, where appropriate.
- 5.2 The Chief Officer must observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to include all relevant income and expenditure, including overhead charged and an annual report in support of the final accounts.
- 5.3 The Chief Officer must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **6. External Arrangements**

### **6.1 Partnerships**

- 6.1.1 Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Where the Council is simply providing funding without assuming any obligation or risk relating to delivery of the project, this is not a partnership.
- 6.1.2 It is important to understand and distinguish between a partnership in this context and a supplier who the Council may refer to as a 'partner' due to the status that the Council has contractually awarded to it. Irrespective of the title applied to it, this latter type of partnership is a supplier relationship, which will be entered into in accordance with, and governed by, the Council's Procurement Policy and Procedures.
- 6.1.3 Chief Officers are responsible for ensuring that appropriate work is undertaken and committee approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- 6.1.4 The approval of both the Chief Finance Officer and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Chief Finance Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership.
- 6.1.5 A written partnership agreement must be produced that clearly establishes the responsibilities of the respective partners for managing the arrangement and the resources made available to the partnership. The document must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend.
- 6.1.6 Delegation of budget to a partnership
- The delegation of budget to a partnership (whether or not the arrangement is binding on the parties), where money is normally spent in accordance with the wishes of a group of individuals or organisations, is subject to approval in accordance with the table above at paragraph 2.3.5

6.1.7 Where the Council is the 'accountable body' for a partnership, these Financial Regulations apply to decisions relating to the expending of that money. All expenditure must be authorised by an appropriate London Borough of Barnet officer, or by someone else who has a statutory power to authorise expenditure.

## **6.2 External Funding**

6.2.1 External funding covers bids to Government and other organisations that are offering funding for projects that meet certain criteria. It also covers contributions being sought from participating organisations and individuals, from either public or private sources.

6.2.2 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

6.2.3 Chief Officers must provide the Chief Finance Officer with details of all bids for external funding. Bids will follow the requirements of the Council's investment appraisal process.

6.2.4 Chief Officers must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed

6.2.5 Chief Officers must advise the Chief Finance Officer of all grant and subsidy notifications as soon as they are received. Where the amount notified is greater than the budget, the excess will be deemed a windfall and should in the first instance be returned to the central contingency unless regulations specify restrictions on their use which make this inappropriate or the underspend, additional income or windfall is to be used to offset uncontrollable overspends elsewhere within the service. Where the amount notified is less than the budget, the Director or Head of Service must notify the Chief Finance Officer of options for containing any potential overspend.

## **6.3 Work For Third Parties**

6.3.1 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work.

6.3.2 With regard to the financial aspects of third party contracts, Chief Officers will:

- i. Comply with any guidance issued by the Chief Finance Officer and will ensure that the appropriate insurance arrangements are made.
- ii. Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
- iii. Ensure that the Council is not unnecessarily exposed to the risk of bad debts.

6.3.3 A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement. Chief Officers will provide information on the contractual arrangements to the Chief Finance Officer in order that the appropriate disclosures can be made within the Council's annual statement of accounts.

6.3.4 Cabinet is responsible for monitoring the contractual arrangements for any significant work for third parties or external bodies. For this purpose, significant is deemed to be contracted annual income from a body that is greater than £100,000.

## **6.3.5 Alternative Delivery Models**

Services may be commissioned from retained services within the Council or via alternative delivery models. There are various types of alternative delivery model, including, but not limited to:

- 6.3.5.1 Local Authority Trading Company (LATC)
  - 6.3.5.2 Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking.
  - 6.3.5.3 Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission
  - 6.3.5.4 Social Enterprises - businesses trading for social and environmental purposes.
  - 6.3.5.5 Outsourcing – a contractual arrangement between the Council and a private provider for the delivery of an agreed service.
  - 6.3.5.6 Social Impact Bonds – contract to achieve agreed social outcomes through a programme of interventions delivered by a number of service providers.
  - 6.3.5.7 Joint Committee – joint bodies set up, by agreement, to discharge or carry out activities in conjunction with others.
  - 6.3.5.8 Unincorporated association
- 6.3.6 Any proposal to commission services via an alternative delivery vehicle must be developed through the Council’s business case governance framework and using the business case template, to ensure that there is a robust planning and decision-making process in place.
- 6.3.7 Chief Officers are responsible for ensuring that committee approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

## **7. Transparency**

- 7.1.1 To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending, regardless of value.
- 7.1.2 Monthly payment transactions made via purchase card, employee expenses and accounts payable are available to download via the Council’s Open Barnet data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access. <http://open.barnet.gov.uk/>

## Part 4B

### Contract Procedure Rule

#### **1 Application**

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

#### **2 Scope**

- 2.1 The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding on Procurement, such as grant allocation, received by the Council from external sources and may apply CIL funding allocations agreed by area committees
- 2.2 The Contract Procedure Rules do not apply to Non-Procurement activities whereby the Council has to pay for a Service which it did not initiate or for payments where it is not appropriate to tender including (but not exclusively) inter-authority and inter-agency payments, subscriptions/memberships, emergency temporary accommodation for vulnerable people, assessments, recoument and Council grant allocations, including those payments that constitute an investment in the community infrastructure of the Borough. Payments to third parties for these activities are subject to authorisation by Finance.
- 2.3 Where the Council is entering into a Contract as an agent in collaboration with another public body or organisation which is the principal or lead body in the collaboration, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the principal or lead body concerned. Where the Council is acting as principal or the lead body, these Contract Procedure Rules will take precedence.
- 2.4 Where the Council's schools have to abide by the Scheme for Financing Schools which requires them to follow Contract Standing Orders (CSO) for Schools, then the CSO for Schools shall take precedence over these Contract Procedure Rules.

- 2.5 These Contract Procedure Rules do not apply to any acquisition or disposal of any interest in land including any transaction in land under section 75 of the National Health Services Act 2006; partnership arrangements between NHS bodies and the Council under section 75 of the National Health Services Act 2006 are not subject to these Contract Procedure Rules though procurement activities undertaken under any such arrangements will be subject to these Contract Procedure Rules unless such procurement activities are with an NHS body or another contracting authority.

### **3 Contract Value Calculation**

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

### **4 Authorisation**

- 4.1 Any Procurement, including extensions and variations to Contracts set out in the Annual Procurement Forward Plan and approved by Cabinet, is deemed as Authorised irrespective of the Contract value, subject to 4.3 below.
- 4.2 Any Procurement which has not been Authorised as set out in 4.1 must be Authorised in accordance with the Authorisation and Acceptance Thresholds set out in these Rules and in the Allocation of Responsibilities section of the Constitution.
- 4.3 Any Procurement authorised via the Annual Procurement Forward Plan is subject to the reporting requirements detailed in the approved Annual Procurement Forward Plan.

### **5 Procurement Method**

- 5.1 The method of procurement is set out in the Authorisation and Acceptance Thresholds and the Allocation of Responsibilities section of the Constitution.
- 5.2 All Procurements for goods and services over £25,000 must be advertised on Contracts Finder within 24 hours of the time when the Procurement is advertised in any other way. Procurement over the tender financial threshold must be advertised since 1 January 2021 in the 'Find a Tender' first and then on Contracts Finder. A Contract award notice must also be published on Contracts Finder. Procurement will arrange this through provision of softcopy authorised contract from service area to procurement.
- 5.3 Commissioners may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots. If commissioners decide not to subdivide into lots they must document the main reasons for their decision.

- 5.4 Where the Council accesses an existing Framework Agreement, the Framework Agreement terms and conditions of contract must be used, amended as appropriate as permitted by the Framework Agreement. Before entering into a Framework Agreement due diligence checks must be carried out to demonstrate that the Council can lawfully access the Framework Agreement and that it is fit for purpose and provides value for money.
- 5.5 For activities that result in a contractual obligation for social care placements and special education needs where the decision has been made on the Council's behalf (such as court directed order, personal budget/statement request or an individual's specific needs) the authority to sign off to award an individual funding agreement in accordance with the decision-making framework is contained within the Allocation of Responsibilities section of the Constitution.
- 5.6 Procurement activity for Contracts for certain health, social, community, educational and cultural related services, "Light-Touch Regime Services" whose value is equal to or over the threshold of £663,540 must be tendered and awarded in compliance with the Public Contracts Regulations 2015. Refer to the Procurement Team to advise on the procedures to be applied in connection with the award of these Contracts.
- 5.7 For Procurements below the tender financial threshold only Suitability Assessment Questions can be asked. This means there can be no SQ stage.
- 5.8 For Contracts under the tender financial threshold the Assistant Director Commercial & Procurement in conjunction with the Assistant Director Investment and Innovation Resources may waive the requirement to seek 2 written quotes subject to an Officer Decision being provided, demonstrating that the market-place has been fully tested and the Council has obtained value for money.
- 5.9 The award of Contracts will be based on the most economically advantageous tender assessed from the Council's point of view.
- 5.10 Commissioners shall require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, goods or services.

## **6 Single Tender Action**

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

## **7 Concession Contracts**

- 7.1 Concession Contracts are contracts under which the council outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. The key feature is that the

contractor/provider bears the operating risk of the arrangement and so has no guarantee of recouping its investment or operating costs.

- 7.2 Concession Contracts must meet certain requirements and advice should be sought from Legal Services and Procurement.

## **8 Acceptance**

- 8.1 Acceptance of Contracts must be in accordance with the Allocation of Responsibilities section of the Constitution, and in all cases is subject to: Budget provision; a compliant Procurement process; and confirmation of acceptable financial status of the contractor.
- 8.2 Acceptance of Contracts with independent providers of individual placements for children or adults will in the first instance be achieved through approved frameworks or approved lists of providers. Where requirements cannot be met through approved frameworks or approved lists, authority is delegated to the relevant officer of a service area under the scheme of delegation in the council's Constitution to enter into contract with a new independent provider.
- 8.3 Acceptance thresholds for Contract extensions and variations are set out in the Allocation of Responsibilities section of the Constitution.
- 8.4 The financial assessment of tenders will be undertaken where they are necessary either by statute, to ensure value for money for the council, or both by the following:
- 8.4.1 The relevant service undertaking a procurement if it identifies a requirement for financial assessment to be undertaken for a service/goods contract beneath the 'Find a Tender' tender threshold or beneath the Find a Tender works tender thresholds, or;
- 8.4.2 A Financial Officer as delegated by the Executive Director of Strategy and Resources (Section 151 Officer) if: (a) the contract is valued at Find a Tender Service tender threshold or more, for goods or services; or (b) the contract is valued at Find a Tender Service tender threshold or more for works; or (c) the Executive Director of Strategy and Resources (Section 151 Officer) considers that the Contract has a significant impact on the council's finances.

## **9 Contract Signing and Sealing**

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

## **10 Contract Management**

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

## **11 Extensions and Variations**

- 11.1 Contracts that have been originally advertised with extension options and which contain clear extension options can be extended subject to acceptance under the Allocation of Responsibilities section of the Constitution.
- 11.2 Under Regulation 72 of the Public Contracts Regulations 2015 certain amendments, and extensions or renewals of an existing Contract can be made without triggering a requirement for a new Procurement exercise, subject to the financial limits. Where necessary seek advice from Legal and Procurement.
- 11.3 Placement Agreements for individuals in Social Care or Educational Needs may be varied or extended without reference to the Variation or Extension Acceptance levels and documentation set out in the Allocation of Responsibilities section of the Constitution.
- 11.4 The value referred to in the Allocation of Responsibilities section of the Constitution.
- 11.5 in the column headed 'Variation or extension Acceptance' is the total value of the original Contract value plus the addition of the value of any extensions and/or variations i.e. the total value of the extended or varied Contract.
- 11.6 In addition to the requirements of Regulation 72 Contracts may only be extended or varied if all of the following conditions have been met:
- 11.6.1 the initial Contract was based on a Contract Procedure Rules compliant competitive tender or quotation process;
  - 11.6.2 the value of the extension or variation added to the value of the original Contract does not exceed the original Authorisation threshold as defined in the Allocation of Responsibilities section of the Constitution;
  - 11.6.3 the extension or variation has an approved Budget allocation;
  - 11.6.4 if the initial Contract was subject to an UK regulated tender procedure, that the extension option was declared within the Find a Tender contract notice and the original Acceptance report (Delegated Powers Report/relevant Committee Report);
- 11.7 Where the Procurement results in a Contract which includes a provision for an extension, any Acceptance of that extension needs to be in accordance with the Allocation of Responsibilities section of the Constitution.
- 11.8 Save where the modification can be justified under Regulation 72, if any of the conditions at 11.6 or 11.7 cannot be met, then a new Procurement exercise must be commenced.
- 11.9 Where a variation or extension moves the total value of the Contract into a higher threshold, then acceptance must be sought in accordance with the Allocation of Responsibilities section of the Constitution.

## **12 Waivers**

- 12.1 If the application of these Contract Procedure Rules prevents or inhibits the delivery or continuity of service, Approved Officers (Heads of Service or above) may apply for a waiver. All applications for a waiver of these Contract Procedure Rules must be submitted to Policy and Resources Committee specifically identifying the reason for which a waiver is sought, including justification and risk.
- 12.2 Approved Officers may take decisions on emergency matters (i.e. an unexpected occurrence requiring immediate action) in consultation with the Leader providing they



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report to the next available Cabinet meeting, setting out the reasons for the emergency waiver. A copy of the relevant Cabinet report must be provided to Procurement and stored on the Council's contract repository.

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

**13 Authorisation and Acceptance Thresholds**

	Procurement Value	Procurement Commencement Process		Procurement method	Bid Acceptance Process		Variation or Extension Acceptance Process		Contract Requirement
		Authorisation	Documentation		Authorisation	Documentation	Authorisation	Documentation	
A	£10,000 - £24,999	Officer Decision; or Procurement Forward Plan	Officer Decision Report; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Must move to next threshold if £25,000 or above	Officer Decision Report	Purchase Order
B	£25,000 - £213,477	Officer Decision; or Procurement Forward Plan	Officer Decision Report; or Procurement Forward Plan	Minimum 2 written quotations  No SQ – Suitability Assessment Questions only	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Signed Contract Contract Award Notice
C	£213,477 - £500,000	Portfolio Holder Decision or Procurement Forward Plan	Portfolio Holder Delegated Powers Report; or Procurement Forward Plan	Services/Goods – Find a Tender Works – Competitive Quotation	Council Officer as designated by approved Scheme of Delegation	Officer Delegated Power Report	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within Budget: Portfolio Holder Delegated Powers Report	Signed and sealed contract Contract Award Notice

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	Procurement Value	Procurement Commencement Process		Procurement method	Bid Acceptance Process		Variation or Extension Acceptance Process		Contract Requirement
		Authorisation	Documentation		Authorisation	Documentation	Authorisation	Documentation	
D	£500,000 and above	Cabinet Report; or  Procurement Forward Plan	Cabinet Report; or  For items authorised via the Procurement Forward Plan in accordance with reporting requirements detailed in the approved Plan	Competitive quotation for works contracts for values £500,000 to £5,336,937  Works and Concession Contracts: Full Find a Tender above £5,336,937  Goods: Full Find a Tender  Services: Full Find a Tender  Health, educational, cultural and social care related services: Light Touch Regime Tender above £633,540	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within budget: Cabinet Report	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within budget: Cabinet Report	Signed and sealed contract  Contract Award Notice

## **Decisions relating to Property**

(See Table A below)

The 'Compulsory Transaction' column is proposed to be deleted as where the Council is required by law to sell or let or otherwise dispose of its property no decision is required to authorise the transaction.

## **Decisions relating to Procurement**

(See Table B below)

**TABLE A – Land and Property Transactions Authorisation Delegated Powers<sup>1</sup>**

	<i>Authorisation Level<sup>2</sup></i>	<i>Acquisitions</i>	<i>Lease in</i>	<i>Lease out for Rent or Consideration</i>	<i>Licences, Easements and Consents</i>	<i>Compensations, Settlements and Covenants</i>	<i>Disposals</i>
<b>A</b>	<i>Less than £213,477</i>	<i>Approved Officer</i>	<i>Approved Officer</i>	<i>Approved Officer</i>	<i>Approved Officer</i>	<i>Approved Officer</i>	
<b>B</b>	<i>£213,477 to £500,000 for revenue or £213,477 to £1,000,000 for capital</i>	<i>Portfolio Holder</i>	<i>Portfolio Holder</i>	<i>Portfolio Holder<sup>3</sup></i>	<i>Portfolio Holder<sup>4</sup></i>	<i>Portfolio Holder</i>	<i>Portfolio Holder (unless a Less Than Best transaction, which must be reported to Cabinet)</i>
<b>C</b>	<i>More than £500,000 for revenue or £1,000,000 for capital (Key Decision)</i>	<i>Report to Cabinet</i>	<i>Report to Cabinet</i>	<i>Report to Cabinet</i>	<i>Report to Cabinet</i>	<i>Report to Cabinet</i>	<i>Report to Cabinet</i>

<sup>1</sup> This Table applies to Land and Building activity NOT included in the approved Annual Work Plan

<sup>2</sup> These values may be either Capital or Annualised Income/Expenditure. For calculating a key decision, the total cost or income of the lease over the whole period, for example, is used excluding VAT and service charges.

<sup>3</sup> Leases out for less than best consideration must be reported to Cabinet

<sup>4</sup> Easements granted for less than best must be reported to Cabinet

<b>D</b>	<i>'Non-Value' Variations post Authorisation</i>	<i>Chief Officer Decision</i>	<i>Chief Officer Decision</i>	<i>Chief Officer Decision</i>	<i>Chief Officer Decision</i>	<i>Chief Officer Decision</i>	<i>Chief Officer Decision in consultation with – Portfolio Holder</i>  <i>Report to next Cabinet</i>
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**Table B – Authorisation and Acceptance Thresholds**

	Procurement Value	Procurement Commencement Process		Procurement method	Bid Acceptance Process		Variation or Extension Acceptance Process		Contract Requirement
		Authorisation	Documentation		Authorisation	Documentation	Authorisation	Documentation	
A	£10,000 - £24,999	Officer Decision; or Procurement Forward Plan	Officer Decision Report; or Procurement Forward Plan	Minimum 2 written Competitive Quotations sought	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Must move to next threshold if £25,000 or above	Officer Decision Report	Purchase Order
B	£25,000 - £213,477	Officer Decision; or Procurement Forward Plan	Officer Decision Report; or Procurement Forward Plan	Minimum 2 written quotations  No SQ – Suitability Assessment Questions only	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Council Officer as designated by approved Scheme of Delegation	Officer Decision Report	Signed Contract Contract Award Notice
C	£213,477 - £500,000	Portfolio Holder Decision or Procurement Forward Plan	Portfolio Holder Delegated Powers Report; or Procurement Forward Plan	Services/Goods – Find a Tender Works – Competitive Quotation	Council Officer as designated by approved Scheme of Delegation	Officer Delegated Power Report	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within Budget: Portfolio Holder Delegated Powers Report	Signed and sealed contract Contract Award Notice

	Procurement Value	Procurement Commencement Process		Procurement method	Bid Acceptance Process		Variation or Extension Acceptance Process		Contract Requirement
		Authorisation	Documentation		Authorisation	Documentation	Authorisation	Documentation	
D	£500,000 and above	Cabinet Report; or  Procurement Forward Plan	Cabinet Report; or  For items authorised via the Procurement Forward Plan in accordance with reporting requirements detailed in the approved Plan	Competitive quotation for works contracts for values £500,000 to £5,336,937  Works and Concession Contracts: Full Find a Tender above £5,336,937  Goods: Full Find a Tender  Services: Full Find a Tender  Health, educational, cultural and social care related services: Light Touch Regime Tender above £633,540	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within budget: Cabinet Report	Council Officer as designated by approved Scheme of Delegation	If within Budget: Officer Delegated Power Report  If not within budget: Cabinet Report	Signed and sealed contract  Contract Award Notice



## Part 4C

### HR Regulations

**1. Introduction**

1.1 Except for the powers reserved to The Employment Sub Committee or Full Council the offer, appointment, varying and ending of contracts of employment is a matter for the Head of Paid Service. The Head of Paid Service will discharge their responsibilities at an operational level through the Assistant Director Human Resources & Organisational Development, save as to where such functions may not be discharged by Third Parties. Where a matter sits outside these Regulations then it must be referred to the Head of Paid Service for decision in consultation with the Council’s Monitoring Officer.

**2. The Council Establishment**

2.1 Directors, Assistant Directors and Heads of Service are responsible for the provision of timely and accurate information about Establishment changes so that accurate lists are maintained and to ensure that establishment costs are within budget. Any changes to establishment must be recorded through a delegated powers report.

**3. Offer, Appointment, Varying and Ending Contracts of Employment**

**3.1 Officer Employment Procedure Rules**

3.1.1 The Local Government Act 2000, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities (Standing Orders) Regulations 2001 and the Local Authorities (Standing Orders) (Amendment) Regulations 2015 require the Council to have rules relating to the recruitment, appointment and dismissal of officers. These are set out below in Section 2.1.

3.1.2 Sections below are subject to the following restriction:

3.1.2.1 \*No vacant posts at Assistant Director level or above shall be advertised or recruited to without prior Committee approval and all new posts at Assistant Director level or above shall be created by committee decision (Employment Sub-Committee) and not by delegated powers.

**3.2 Recruitment and appointment**

**3.2.1 Declarations**

<i>Rule</i>	<i>Action</i>
(i) The council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the council; or of the partner of such persons.	All candidates must complete a code of conduct declaration of interests statement as part of the appointment process.
(ii) No candidate so related to a councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.	The application will be passed to the Assistant Director - Human Resources & Organisational Development for the relevant Chief Officer decision.

**3.2.2 Seeking support for appointment**

<b>Rule</b>	<b>Action</b>
(i) The council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the council. The content of this paragraph will be included in any recruitment information.	This forms part of the application process.
(ii) No councillor will seek support for any person for any appointment with the council.	Forms part of the application process.

**3.2.3 \*Recruitment of Head of Paid Service and Chief Officers**

Where the council proposes to appoint a chief officer (excluding any appointment that may be made exclusively from among their existing officers), the council will:

<b>Rule</b>	<b>Action</b>
<p>(a) draw up a statement specifying:</p> <ul style="list-style-type: none"> <li>(i) the duties of the officer concerned; and</li> <li>(ii) any qualifications or qualities to be sought in the person to be appointed;</li> </ul> <p>(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;</p> <p>(c) make arrangements for a copy of the statement mentioned in paragraphs (1) and 2(a) to be sent to any person on request; and</p> <p>(d) Agree the minimum criteria by which objective selection may be made.</p>	Appointment of Chief Officers is a function reserved to the Employment Sub-Committee and may include an external appointment process

**3.2.4 \*Appointment of Head of Paid Service**

<b>Rule</b>	<b>Action</b>
(a) The Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a committee of the council. Full Council must also approve the dismissal of the Head of Paid Service	The Employment Sub-Committee will make a recommendation on the appointment of the Head of Paid Service for approval by Full Council.
(b) The full Council may only make or approve the appointment of the Head of Paid Service.	

3.2.5 \*Appointment of Chief Officers

<b>Rule</b>	<b>Action</b>
(a) A Committee of the council will appoint Chief Officers (as listed in Article 7). Chief Officer appointments made by the Employment Sub-Committee will be reported to Full Council for information.	Appointment of Chief Officers (as listed in Article 9) is a function reserved to the Employment Sub-Committee.
(b) The Chief Executive has authority to make interim Chief Officer appointments for a period of up to a year following consultation with the Leader and the Employment Sub-Committee.	

3.2.6 \*Other appointments

(a) Officers below Chief Officer.

<b>Rule</b>	<b>Action</b>
Appointment of officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee and may not be made by Councillors.	The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.
The Head of Paid Service will consult the Chair of the Employment Sub-Committee before making an appointment of deputy Chief Officers.	The Head of Paid Service will consult the Chair of the Employment Sub-Committee. Appointment of Deputy Chief Officers will be reported to the Employment Sub-Committee for information

(b) Appointment of political assistants

<b>Rule</b>	<b>Action</b>
<p>(i) The council may appoint up to three posts to provide assistance to the members of any political group to which members of the council belong to discharge any of their functions as members of the council.</p> <p>(ii) Each post shall first be allocated to a political group in accordance with Section 9 of the Local Government and Housing Act 1989, and will then fall to be filled from time to time in accordance with the wishes of that group. No post shall be allocated to a political group that does not qualify for one.</p> <p>(iii) No appointment shall be made to any such post until the council has allocated a post to each political group that qualifies for one. No more than one post shall be allocated to any one political group.</p>	<p>The Monitoring Officer will be responsible for the allocation of posts.</p> <p>The Head of Paid Service will ensure that all appointments shall be made in accordance with the Council's contractual terms and conditions.</p>

3.2.7 Disciplinary action

<b>Rule</b>	<b>Action</b>
(a) <b>Suspension:</b> The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay	The Head of Paid Service will be responsible to ensure that the correct processes are followed. Where the process involves the Head of Paid Service, the Council's Monitoring Officer will be responsible.
(c) Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.	The Head of Paid Service will be responsible to ensure that the correct processes within the Council's contractual Terms and Conditions are followed.

3.2.8 Dismissal

<b>Rule</b>	<b>Action</b>
(a) Councillors will not be involved in the dismissal of any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.	The Head of Paid Service will be responsible to ensure that the correct processes as allowed for within the Council's contractual Terms and Conditions are followed.
(b) Any decision to dismiss the Head of Paid Service, Chief Finance Officer and Monitoring Officer must be taken by full Council	<p>Prior to Full Council considering the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, the council must set up a panel to give views, advise and make recommendations to Full Council.</p> <p>The council must invite at least two independent persons to sit on this panel.</p> <p>The panel must be appointed at least 20 working days before the relevant meeting of Full Council.</p> <p>Before the taking of a vote at the relevant meeting of Full Council, the authority must take into account: a) any advice, views or recommendations of the Panel; b) the conclusions of the investigation</p>

	into the proposed dismissal; and c) any representations from the relevant officer.
(c) Decisions to dismiss a Chief Officer other than set out in (b) above shall be taken by the Employment Sub-committee	

### 3.3 Varying Terms and Conditions of employment

- 3.3.1 With the exception of Chief Officers, terms and conditions for employees will be determined by the Head of Paid Service within the agreed negotiating mechanisms.
- 3.3.2 Directors, Assistant Directors, Heads of Service are responsible for the provision of timely and accurate information about changes to individual's Terms and Conditions of employment e.g. workplace adjustments and flexible working request.
- 3.3.3 The Assistant Director - Human Resources & Organisational Development will ensure that contractual variations are properly authorised and allowed for within the Council's contractual Terms and Conditions and are made on an accurate and timely basis.

### 3.4 Leavers

- 3.4.1 The Head of Paid Service through the Assistant Director - Human Resources & Organisational Development will ensure that Leavers are managed in accordance with the Council's contractual Terms and Conditions and changes are made on an accurate and timely basis.

## 4. Employee Records

- 4.1 Directors, Assistant Directors and Heads of Service are responsible for the provision of timely and accurate information about changes to employee Records e.g. absence information and input of Performance Reviews.

## 5. Salaries & allowances payable to Council employees and Pensioners

- 5.1 The Assistant Director - Human Resources & Organisational Development will ensure that properly authorised payments for Salaries and Allowances shall be made in accordance with the Council's contractual terms and conditions and these will be made on an accurate and timely basis.

## 6. Members Allowances

- 6.1. The Chief Finance Officer shall make payments of allowances to Members of the Council, co-opted members and members of the public who attend other Council bodies who are entitled to make such claims on submission of the approved form.
- 6.2. The Assistant Director - Human Resources & Organisational Development will ensure that these payments are made on an accurate and timely basis.
- 6.3. The Monitoring Officer will be responsible for notifying the Assistant Director - Human Resources & Organisational Development of any changes to Members' Allowances.

## Part 4D

### Member Code of Conduct

#### 1. Introduction and Interpretation

- 1.1. This Code applies to Councillors (Members) of the London Borough of Barnet and also to co-opted committee members.
- 1.2. It is the responsibility of Councillors and co-opted Members to comply with the provisions of this Code.

#### 2. Scope

- 2.1. You must comply with this Code whenever you act in the capacity as a councillor.

#### 3. General Obligations

- 3.1. Councillors (Members) and Co-Optees are committed to behaving in a manner that is consistent with the following principles of Public Life:
  - **Selflessness** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
  - **Honesty and integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
  - **Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
  - **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with any scrutiny appropriate to their particular office.
  - **Openness** - Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - **Personal judgement** - Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - **Respect for others** - Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.
  - **Duty to uphold the law** - Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
  - **Stewardship** - Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.
  - **Leadership** - Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**3.2. Do:**

- a) Follow the Code of Conduct when you are representing your authority.
- b) Be aware of what pecuniary and non-pecuniary interests are - refer to the Monitoring Officer if you are unsure.
- c) Keep your register of interests up-to-date.
- d) Treat others with respect.
- e) Register gifts and hospitality, received in your role as a Member, worth more than £25.
- f) Report a safeguarding issue to the appropriate authority
- g) Comply with any formal investigation under this Code of Conduct
- h) When dealing with enquiries from residents do refer these to officers if the requests become vexatious or are otherwise difficult to deal with.

**3.3. Don't:**

- a) Bring your authority or office into disrepute.
- b) Use the Council's resources which includes the Council's address and email address for any personal, party political or non-Council purposes.
- c) Compromise the impartiality of people who work for your authority.
- d) Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- e) Bully, harass, intimidate or attempt to intimidate others<sup>1</sup>.
- f) Use your position improperly for personal gain or to advantage your friends or close associates.
- g) Participate in meetings or be involved in decision-making where you have a pecuniary interest - except when speaking when the general public are also allowed to do so.
- h) Disclose confidential information, other than in exceptional circumstances - refer to the Monitoring Officer if you are unsure.
- i) Prevent anyone getting information they are entitled to.
- j) Make trivial or malicious allegations under this Code of Conduct

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<sup>1</sup> Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour; or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone.

Harassment may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual.

Examples include:

Verbal: remarks about appearance, derogatory or lewd comments, innuendoes, persistent name calling, statements which are suggestive, unwelcome, abusive and offensive.

Behaviour: that denigrates or ridicules; intimidation or physical abuse; making threats; attempts to stir up hatred against an individual or group

#### **4. Disclosable Pecuniary Interests**

4.1. A pecuniary interest is a 'Disclosable Pecuniary Interest' if it is of a description specified in Appendix A and either:

- a) it is the interest of you as a Member; or
- b) it is an interest of:
  - (i) the Member's spouse or civil partner
  - (ii) a person with whom the Member is living as husband and wife, or
  - (iii) a person with whom the Member is living as if they were civil partners and the Member is aware that the other person has that interest.

4.2. If you are in any doubt as to whether you should continue to participate in any matter, you should take advice from the Monitoring Officer at an early stage as to whether your circumstances permit continued participation.

#### **5. Other Interests**

5.1. Other interests are ones where:

5.1.1 Any decision in relation to the item at a meeting might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area.

5.1.2 A close family member is a spouse, civil partner or any person living with the member as a spouse or civil partner, or a Member's brother or sister, son or daughter or a parent.

#### **6. Disclosure of Pecuniary and Other Interests**

6.1. Subject to the paragraph 7 below (Sensitive Interests), you must within 28 days of this Code being adopted or election or appointment to office, and within 28 days of becoming aware of any new pecuniary or other interest, or of any change to your registered interests, notify the Monitoring Officer.

6.2. If a pecuniary or Other Interest arises from any business to be discussed at any committee or joint committee meeting of the Council then you must declare this interest either at the start of the meeting or immediately before the item is discussed.

6.3. If you declare a pecuniary interest then you must not take part in any discussion of the matter at the meeting, and you must not vote on the matter. You need not withdraw from the meeting but any participation by yourself at the meeting in respect of the matter in which you have a pecuniary interest is a criminal offence for which you may be prosecuted as well as referred to the Standards Committee.

6.4. If you declare an Other Interest then you may remain in the meeting, you may take part in the discussion and you may vote on the matter.

#### **7. Sensitive Interests**

7.1. Where you consider that disclosure of the details of an interest could lead to you or a person connected to you being subject to violence, discrimination or intimidation, and



the Monitoring Officer agrees, then the Register of Interest will disclose the interest but not the details which may accordingly be withheld from publication.

## **8. Dispensations**

- 8.1. In cases where a Member has a disclosable Pecuniary Interest, they may still be able to participate and vote at a meeting if they have obtained a dispensation from the Monitoring Officer in accordance with the provisions set out below.
- 8.2. There are five circumstances in respect of which a dispensation may be granted, namely:
  - (a) That so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business;
  - (b) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
  - (c) That the authority considers that the dispensation is in the interests of persons living in the authority's area;
  - (d) That without a dispensation, no member of the committee would be able to participate in this matter, or
  - (e) That the authority considers that it is otherwise appropriate to grant a dispensation
- 8.3. You must make verbal declaration of the existence and nature of any dispensation granted to you at or before the consideration of the item of business or as soon as the interest to which the dispensation relates, becomes apparent. In the event of a blanket dispensation granted to all Members on a particular matter, this should be declared by the chair at the commencement of the meeting.

## **9. General Dispensations Granted by the Monitoring Officer**

- 9.1. The following general dispensations have been granted by the Monitoring Officer to all Members up to 23 May 2026 to enable them to be present, speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is appropriate to grant a dispensation to allow all Members to participate fully in the following matters:
  - a) Housing: where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not only relate to the Member's particular tenancy or lease.
  - b) School meals or school transport and travelling expenses where the Member is a parent or guardian of a child in full time education, or is a parent governor of a school, provided that the matter does not only relate to the particular school which the child attends.
  - c) Housing Benefit: where the Member (or spouse or partner) directly receives housing benefit in relation to their own circumstances.
  - d) Decisions in relation to any Council Tax Benefit if the member or their spouse or partner are in receipt of any such benefit.
  - e) Membership of the Local Government Pension Scheme of either the councillor or their spouse or partner

- 9.2. For the avoidance of doubt and to ensure adherence to the Member Code of Conduct, Members should seek guidance from the Council's Monitoring Officer.

**10. Gifts and Hospitality**

- 10.1. You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a Member from any person or body other than the authority.
- 10.2. The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 10.3. This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

**11. Additional voluntary provisions**

- 11.1. No Councillor shall provide or offer to provide a formal reference for any candidate for employment or promotion with the Council as to do so may be perceived as bringing an unacceptable pressure to bear on the appointing officer and any officer appointed as a result of such reference.

## Appendix A - Pecuniary Interests and Other Interests

### 1. **Employment, office, trade, profession or vocation:**

- 1.1. Your employment, office, trade, profession or vocation carried on for profit or gain, and that of your husband/wife/civil partner.
- 1.2. Note: "Office" includes position held as representative of the council on the management of an external organisation if an Allowance is paid which exceeds reasonable expenses.

### 2. **Sponsorship**

- 2.1 Any payment or provision of any other financial benefit in respect of any expenses incurred in carrying out duties or towards election expenses; this includes any payment or financial benefit from a trade union.

### 3. **Contracts**

- 3.1 Any contract which is made between you or your husband/wife/civil partner (or a body in which you or your husband/wife/ civil partner has a beneficial interest) and the Council under which goods or services are to be provided or works are to be executed and which has not been fully discharged.

### 4. **Land**

- 4.1 Any beneficial interest in land held by you or your husband/wife/civil partner which is within the area of the Council.

### 5. **Licences**

- 5.1 Any licence (alone or jointly with others) to you or your husband/wife/civil partner to occupy land in Barnet for a month or longer.

### 6. **Corporate tenancies**

- 6.1 Any tenancy where the landlord is the Council and the tenant is a body in which you or your husband/wife/civil partner has a beneficial interest.

### 7. **Securities**

- 7.1 Any beneficial interest in which you or your husband/wife/civil partner has in securities of a body where:
  - a) that body has a place of business or land in the area of the Council; and
  - b) either:
    - I. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - II. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or a relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

### 8. **Other Interests**

- 8.1 Other Interests are ones where:
  - a) Any decision in relation to the item at a meeting might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would

affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area.

- b) A close family member is a spouse, civil partner or any person living with the member as a spouse or civil partner, or a Member's brother or sister, son or daughter or a parent.

## Register of Councillors' Interests

I, .....(name)

an Elected / Co-opted Member of the London Borough of Barnet do hereby give notice that I have set out below my interests which I am required to declare under the Code of Conduct for Members.

Within 28 days of election to office, an Elected or Co-opted Member must register his/her pecuniary and non-pecuniary interests in a public register by providing written notification to the Monitoring Officer; you must declare your own interests on the form below and also those of your husband/wife/civil partner, which includes any person with whom you are living as husband/wife/civil partner. You do not need to name your husband/wife/civil partner.

### Pecuniary Interests

#### 1. Employment, Office, Trade, Profession or Vocation:

Your employment, office, trade, profession or vocation carried on for profit or gain, and that of your husband/wife/civil partner.

Note: "Office" includes position held as representative of the council on the management of an external organisation if an Allowance is paid which exceeds reasonable expenses.

#### 2. Sponsorship

Any payment or provision of any other financial benefit in respect of any expenses incurred in carrying out duties or towards election expenses; this includes any payment or financial benefit from a trade union.

**3. Contracts**

Any contract which is made between you or your husband/wife/civil partner (or a body in which you or your husband/wife/ civil partner has a beneficial interest) and the Council under which goods or services are to be provided or works are to be executed and which has not been fully discharged.

**4. Land**

Any beneficial interest in land held by you or your husband/wife/civil partner which is within the area of the Council

**5. Licences**

Any licence (alone or jointly with others) to you or your husband/wife/civil partner to occupy land in Barnet for a month or longer.

**6. Corporate tenancies**

Any tenancy where the landlord is the Council and the tenant is a body in which you or your husband/wife/civil partner has a beneficial interest.

**7. Securities**

Any beneficial interest in which you or your husband/wife/civil partner has in securities of a body where:

- a. that body has a place of business or land in the area of the Council; and
- b. either:
- c. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
- d. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or a relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**8. Personal Wellbeing**

You may also have a pecuniary interest where you attend a meeting of the Council where the business concerns your personal wellbeing or financial position or that of your husband/wife/partner – to a greater extent than the majority of residents in your Ward affected by the decision.

*You may only know this when you attend a meeting of the Council and an item on the agenda affects your wellbeing or that of your husband/wife/partner, to the extent described.*

*You must then declare a pecuniary interest at the beginning of the meeting or before the relevant item is discussed and not take part in the meeting when that agenda item is discussed.*

**9. Other Interests**

Other Interests are ones where:

- a) Any decision in relation to the item at a meeting might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area.
- b) A close family member is a spouse, civil partner or any person living with the member as a spouse or civil partner, or a Member’s brother or sister, son or daughter or a parent.

*If you are unsure about any matter relating to the declaration of interests please consult with the Monitoring Officer.*

*If there is insufficient space in any of the boxes provided, please use a supplementary sheet.*

*This is a public document to which members of the public will have free access to during normal office hours and copies will also be published on the Council’s website.*



**Declaration**

I recognise that I will be in breach of the Council’s Code of Conduct for Members if I:

- a. omit information that ought to be given in this notice; or
- b. provide information that is materially false or misleading; or
- c. fail to give further notices within 28 days of any change to the information set out above in order to bring up to date the information given in this notice.

Signed .....

Dated .....

Please return the signed Declaration to the Monitoring Officer

### Statutory Register of Gifts or Hospitality

An Elected or Co-opted Member must, within 28 days of receiving any gift or hospitality, in their capacity as a Councillor or Co-opted Member, and over the value of £25, provide written notification to the Council’s Monitoring Officer of the existence and nature of that gift or hospitality. This does not apply to gifts or hospitality received from the Council.

I, .....being an Elected / Co-opted Member of Barnet Council do hereby give notice that I have received the gift or hospitality detailed below.

Signed .....

Dated .....

Please return the signed Notice to the Monitoring Officer

Date upon which the Gift or Hospitality was received:

Person / Organisation offering or providing the Gift or Hospitality:

Brief details of Gift or Hospitality received:

Estimated or actual value of the Gift/Hospitality:

### Dispensations Available

Circumstances in which dispensations may be granted:

The Monitoring Officer may grant a dispensation to a Member in the following circumstances:

- that so many Members of the decision making body have disclosable pecuniary interests in the matter that the meeting would be inquorate; or
- that the representation of different political groups on the decision making body would be so upset as to alter the likely vote on the matter; or
- that it is in the interests of persons living within Barnet; or
- that it is otherwise considered appropriate to grant a dispensation.

## Part 4D1

### Procedure for dealing with complaints

1. Arrangements for dealing with allegations that a Councillor/Member or co-opted member of Barnet Council has failed to comply with the Members' Code of Conduct.
2. In this procedure the reference to 'Independent Person' means a person appointed by the Council pursuant to Section 28 of the Localism Act 2011, whose views may be taken into account before final decisions upon allegations against Members are taken and who may be consulted by a Member who is the subject of allegations or by the Council.
3. **Making an allegation**
  - 3.1 An allegation that a Member or a Co-opted Member of Barnet Council has failed to comply with the Members' Code of Conduct should be made in writing to the Monitoring Officer if possible using the Complaint Form on the Council's website.
  - 3.2 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.
  - 3.3 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
  - 3.4 The Monitoring Officer will usually acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
  - 3.5 The Monitoring Officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in her opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.
4. **Assessment of an allegation**
  - 4.1 The Monitoring Officer will review every allegation received and will consult with an Independent Person. The Monitoring Officer will initially investigate to see if the complaint can be resolved in the Public Interest.
  - 4.2 The Monitoring Officer will use a number of criteria for assessing complaints, and may consult with Political Party Leaders. The Monitoring Officer may determine that an allegation does not merit any further action, where:
    - 4.2.1 The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service, or
    - 4.2.2 The allegation doesn't merit investigation on public interest<sup>1</sup> grounds.

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<sup>1</sup> Public Interest Test:

- Is there evidence which supports the complaint?
  - Is the conduct something which it is possible to investigate?
- Part 4D1 – Procedure for dealing with Member complaints

## London Borough of Barnet - Constitution

- 4.2.3 It is about someone who is no longer a Member or a Co-opted Member of the Council, or
  - 4.2.4 There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
  - 4.2.5 The same or a similar allegation has been investigated and determined, or
  - 4.2.6 It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
  - 4.2.7 The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council.  
or
  - 4.2.8 The complainant is considered to be vexatious,
- 4.3 If the complaint is dealt with under 2.2 above, the Monitoring Officer will promptly notify the complainant and the Member of the outcome, giving reasons for the decision.
- 4.4 The Monitoring Officer may also determine that an allegation merits no further investigation having regard to the following additional criteria:
- 4.4.1 The allegation is not considered sufficiently serious to warrant investigation, or
  - 4.4.2 The allegation appears to be motivated by malice, is trivial or malicious or is 'tit-for-tat', or
  - 4.4.3 The allegation appears to be politically motivated, or
  - 4.4.4 The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.
- 4.5 Where the Monitoring Officer considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation in accordance with Section 3 below.
- 4.6 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt of the allegation and in order to make this decision the Monitoring Officer may consult the informal Standards Working Group if the Monitoring Officer is of the view that this is required. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially.
- 4.7 The Standards Working Group is made up of two elected members and an Independent Person. It is an informal non decision making working group which is set up to be consulted by the Monitoring Officer if required.

## 5. The Investigation

- 
- Would an investigation be proportionate and in the public interest?

## London Borough of Barnet - Constitution

- 5.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.
- 5.2 The Monitoring Officer/Investigating Officer will decide if they need to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain their understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who they consider the Monitoring Officer/Investigating Officer needs to interview.
- 5.3 The Monitoring Officer/Investigating Officer will normally write to the Member against whom the complaint is made and provide them with a copy of the complaint and ask the member to provide their explanation of events and to identify what documents they consider the Monitoring Officer/Investigating Officer need to see and who they consider the Monitoring Officer/Investigating Officer need to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person's name and address from the papers given to the Member.
- 5.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 5.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send their final report (the Investigation Report) to the Monitoring Officer for the latter's consideration.
- 5.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution, the Monitoring Officer shall submit the Investigation Report to the Standards Working Group. The Standards Working Group will be consulted on the next steps in the process for example, can the matter be resolved at this stage or does it need to proceed to the formal Standards Committee Sub Committee.

## **6. The Pre-Hearing Process and Hearing**

- 6.1 A Member or Co-opted Member who is the subject of a complaint which proceeds to a hearing of the Standards Committee Sub Committee has the right to be legally represented or accompanied at the hearing.
- 6.2 In advance of the Hearing the Monitoring Officer (and/or her nominees) will:
  - 6.2.1 agree a date for the hearing with all the relevant parties;
  - 6.2.2 provide a timetable for the Member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any

- witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
- 6.2.3. establish whether the member will be represented or accompanied at the hearing;
  - 6.2.4. establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;
  - 6.2.5. provide information about the procedure to be used at the hearing;
  - 6.2.6. whether the member disagrees with any of the findings of fact in the Investigation Report;
  - 6.2.7. establish whether the Investigating Officer intends to call any witnesses.
- 6.3 Wherever possible hearings conducted by the Standards Committee Sub-Committee shall take place within three calendar months of the completion of the Investigation Report.
- 6.4 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Committee.
- 6.5 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee Sub Committee as to why they consider that they did not fail to comply with the Members' Code of Conduct.
- 6.6 If a Member fails to attend the hearing, the Standards Committee Sub Committee may decide to proceed in the Member's absence and make a determination, or to adjourn the hearing to a later date.
- 6.7 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- 6.8 The Standards Committee Sub Committee, having sought and taken into account the views of the Independent Person may conclude:
- 6.8.1 that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
  - 6.8.2 that the member did fail to comply with the Members' Code of Conduct.
- 6.9 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Standards Committee Sub Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Standards Committee Sub Committee will give the member an opportunity to make representations to the Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of the Independent Person. It will then decide what action, if any, to take in respect of the matter.
- 6.10 In the event that votes are tied on a finding on a complaint the Committee will determine that the Member has not breached the Code of Conduct and the allegation will be dismissed.

**7. Action which may be taken where a member has failed to comply with the Code of Conduct**

7.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Committee may:

7.1.1 Publish its findings in respect of the Member's conduct;

7.1.2 Report its findings to Council for information;

7.1.3 Issue the Member with a formal censure or reprimand, a report of which may be submitted to Council

7.1.4 Recommend to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;

7.1.5 Instruct the Monitoring Officer to arrange training for the member;

7.1.6 Recommend to Council that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council

7.1.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or

7.1.8 Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

7.1.9 Take no further action

7.1.10 Any other appropriate sanction which may be available to the Committee.

7.2 The Standards Committee Sub Committee has no power to suspend or disqualify the Member or to withdraw members' or special responsibility allowances.

7.3 At the end of the hearing, the Chair shall state the decision of the Standards Committee Sub Committee as to whether the Member failed to comply with the Code of Conduct and as to any action which the Committee has resolved to take.

7.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Committee, and send a copy to the person making the allegation; to the member concerned; make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

**8. Appeals**

8.1 There is no right of appeal for either the person making the allegation or for the Member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee Sub Committee.

**9. Reports**

9.1 The Monitoring Officer will submit a report to the Constitution and General Purposes Committee at annual intervals to inform the Committee about all complaints which have been received during the year.

**10. Hearing Procedure**

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- 10.1 The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Standards Committee Sub Committee and advised to the parties
- 10.2 The Chair shall facilitate introductions and explain the procedure for the hearing.
- 10.3 The Monitoring Officer/Investigating Officer shall be invited to present their Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
- 10.4 The Member against whom the allegation has been made or their representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
- 10.5 Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
- 10.6 The Member against whom the allegation has been made or his/her representative may present their case and call witnesses as required.
- 10.7 The Monitoring Officer/Investigating Officer may question the Member and any witnesses
- 10.8 Members of the Committee may question the Member and any witnesses.
- 10.9 The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
- 10.10 The Member or his/her representative may sum up his/her case and make a closing speech.
- 10.11 The Chair shall invite the parties to withdraw to enable the Committee to deliberate upon the allegation. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.
- 10.12 The parties shall be invited to return and the Chair shall announce the Committee's decision in the following terms:
  - 10.12.1 The Committee has determined that the Member has failed to comply with the Code of Conduct, or
  - 10.12.2 The Committee has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.
- 10.13 The Committee will give reasons for its decision.
- 10.14 If the Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.
- 10.15 The Chair shall invite the parties to withdraw to enable the Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Committee shall seek and take into account the views of the Independent Person.



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- 10.16 In addition to any action upon the current matter, the Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.
- 10.17 The parties shall be invited to return and the Chair shall announce the Committee's decision
- 10.18 A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

## Part 4E

### Members' Licensing Code

#### 1. Purpose of this Code

- 1.1 This Licensing Code has been prepared to guide Members and Officers in the discharge of the Council's statutory licensing functions (under the Licensing Act 2003 and Gambling Act 2005).
- 1.2 This Code will also inform potential applicants and the public generally of the high standards of ethical conduct expected of the Council in the exercise of its licensing powers.
- 1.3 Members should abide by both this Licensing Code and also the Code of Conduct for Members.
- 1.4 The provisions of this Licensing Code are designed to ensure that licensing decisions are taken on proper licensing grounds and in a consistent and open manner. The Licensing Code is also designed to assist Members and Officers in dealing with approaches from applicants and residents.
- 1.5 If Members have any doubts about the application of this Licensing Code they should seek early advice preferably well before any meeting takes place, from the Monitoring Officer.

#### 2. Context

- 2.1 Licensing decisions are often based on balancing competing interests and making an informed judgement having taken account of all the evidence presented. Decision makers need to make fair and open decisions that are based on promoting the licensing objectives, in the wider public interest on what can be controversial proposals regardless of personal or political allegiances.
- 2.2 Licensing decisions can be controversial. Any application is likely to have significant impact on the neighbourhoods where people live and therefore they are subject to close public scrutiny.
- 2.3 Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court, and they can be the subject of a complaint to the Local Government Ombudsman. Members deciding a licensing matter are required to act in a largely quasi-judicial role, without reference to their political considerations and taking into account the issues which the law says are relevant to the decision.
- 2.4 One of the key aims of the licensing system is to balance private interests against the wider public interest. Opposing views are often strongly held by those involved. Whilst Councillors who sit on licensing committees must take account of these views, they should not favour any person, company, group, or locality, nor put themselves in a position where they may appear to be doing so.
- 2.5 The aim of this Code is therefore to ensure that the Council's processes are sound and that decisions are lawful, consistent, and procedurally correct.

#### 3. General Roles of Councillors and Officers

- 3.1 Members and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole through the Chief Executive, whilst

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Members are responsible to the electorate and the Council. In licensing matters, unlike planning, officers present only the facts and do not form a view as this is for Members of the committee alone to determine. The exception to this is where a Council's Licensing team (in its capacity as one of the Responsible Authorities under the 2003 Act) submits a representation in respect of a licence application or makes an application for a review of a licence. In this case, an officer from the team making the representation/application will present their view and submissions to the Sub-Committee for its consideration, alongside any representations from other parties. Where a representation / application is made by the licensing authority, as Responsible Authority a separate officer from the licensing authority who is not involved in the making of the representation may also attend to assist the Committee and present the licensing report. Sub-committee members can ask officers questions in the meeting.

- 3.2 Members must not put pressure on officers to deal with a licensing matter in a particular way. This does not prevent a Councillor who is not a member of the panel from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the licensing file and considered together with other material licensing considerations.
- 3.3 If Members wish to speak at any Licensing sub committee meeting, they can only do so if they have submitted a relevant written representation, unless they have been asked to speak on behalf of a party who has submitted a relevant written representation in which case they cannot go beyond the scope of that representation.
- 3.4 Representations on Licensing applications under the Licensing Act 2003 and the Gambling Act 2005

Type of application	Legislation	Who can make representations.
New premises licence/club premises certificate	Licensing Act 2003	Members of the public, namely residents or businesses, community groups; appropriate ward Councillors and neighbouring wards, and Responsible Authorities including Licensing, Metropolitan Police, London Fire Brigade, Pollution Control, Health and Safety Team, Food Safety Team, Planning Department, Children's Services, Trading Standards and Public Health.
Variation of premises licence/club premises certificate	Licensing Act 2003	Members of the public, namely residents or businesses, community groups; appropriate ward Councillors and neighbouring wards, and Responsible Authorities including Licensing, Metropolitan Police, London Fire Brigade, Pollution Control, Health and Safety Team, Food Safety Team, Planning Department, Children's Services, Trading Standards and Public Health.

Type of application	Legislation	Who can make representations.
Review of licence	Licensing Act 2003	Members of the public, namely residents or businesses, community groups; appropriate ward Councillors and neighbouring wards, and Responsible Authorities including Licensing, Metropolitan Police, London Fire Brigade, Pollution Control, Health and Safety Team, Food Safety Team, Planning Department, Children’s Services, Trading Standards and Public Health.
Summary review of licence	Licensing Act 2003	The Licence Holder  Note: the initial interim steps hearing can proceed without any representations from the premises licence holder and there is no requirement for the premises licence holder to be present at that initial hearing. That does not mean the Licensing Authority cannot afford the licence holder such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.
Temporary Event Notice	Licensing Act 2003	Police and Environmental Health  Ward Councillors and the public may not make representations as Relevant Persons may only speak and the Act defines these under s99A as police and Environmental Health only
Gambling Premises License (including variations)	Gambling Act 2005	Representations can only be made by Responsible Authorities or Interested Parties. These are defined by s 157-158 of the 2005 Act, with “Interested Parties” being a person who, in the opinion of the licensing authority, lives sufficiently close to the premises to be likely to be affected by the authorised activities, or have a business interest that might be affected by the authorised activities, or someone who represents either of these people. This can include Ward Councillors.
Review of Gambling Premises Licence	Gambling Act 2005	The Licensing Authority, a Responsible Authority, an Interested Person or the Premises Licence Holder

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- 3.5 The Licensing Act 2003 requires that 'Responsible Authorities' such as the police, environmental health and others are notified of every application for a new premises licence or variation of an existing licence. An applicant is also obliged to advertise their application in a local paper and place a notice outside the premises for 28 days (10 days for a minor variation application). The 2003 Act enables Responsible Authorities and any other person to make relevant representations about the effect of the application on the promotion of the licensing objectives. This means that the community have a greater say in licensing decisions.
- 3.6 A representation may be an objection or a positive comment. Representations must be relevant to the premises. For a representation to be relevant, it must be about the likely effect of the application on the promotion of the four licensing objectives. A representation will not be relevant if it is vexatious or frivolous. If no relevant representations are made, the licence or variation must be granted in the form that the application was made.
- 3.7 When Members are making Licensing decisions, they must be open-minded: a Member must not make up his/her mind until s/he has heard all the relevant evidence, which will not happen until the meeting itself.

### **4. Member interests**

- 4.1. It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Licensing Committee he or she should raise this with the Monitoring Officer as soon as possible.
- 4.2. The following general advice should be considered by all Members likely to become involved in the Licensing process in any way:
- 4.3. An application relating to premises in the vicinity of where a Member lives or has a legal interest in property is likely to involve a Pecuniary Interest. (Please see the Member's Code of Conduct for further details)
- 4.4. A Member being a frequent visitor to the premises in a personal capacity is likely to involve an Interest or a perception of bias as the decision may affect the Member's wellbeing.
- 4.5. A Member belonging to a lobby or campaign group that may be directly impacted by the outcome of an application is likely to have any interest and there may be a perception of bias.
- 4.6. Where a Member has a Pecuniary Interest relating to an application they may not sit on the committee (including sub-committee) hearing that application. Any Member, whether or not a Member of the committee, with a Pecuniary Interest is precluded from taking part in that item at the meeting.
- 4.7. A Member with a Pecuniary Interest is advised to arrange for another Member to represent the views of the Councillor's constituents.
- 4.8. The Members Code of Conduct requires Members to declare interests and withdraw from meetings and this is to prevent most obvious forms of bias, e.g. not deciding your own licensing application. However, Members may also consider that a "Non-Pecuniary Interest" under the Code also gives rise to a risk of what is called apparent bias.

## 5. Predisposition, Predetermination and Bias

- 5.1. Licensing Committee Members need to avoid any appearance of bias or of having predetermined their views before considering or hearing all the relevant evidence. Avoidance of bias or predetermination or the appearance of bias or predetermination is a legal requirement that the decision maker must respect.
- 5.2. A distinction needs to be made between situations which involve pre-determination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach. Bias can also arise from a member’s relationships or interests, as well as their state of mind. Pre-determination and bias are unlawful and can make a decision unlawful and likely to leave the committee’s decision susceptible to legal challenge by appeal or Judicial Review.
- 5.3. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair-minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.
- 5.4. Clearly expressing an intention to vote in a particular way before a meeting
- 5.5. (predetermination) is different from where a Member makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such decisions.
- 5.6. The law provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member was biased.
- 5.7. A Licensing Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal will not be able to sit on the committee hearing the proposal as this would amount to predetermination.
- 5.8. Participation as a Member in a Licensing Committee where a Member is or may be perceived to be biased, in addition to the risk of a complaint against the individual Member, also places the decision of the Committee at risk from legal challenge. As such, if a Licensing Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.
- 5.9. A Member should stand down from any agenda item where they have a relevant and current or recent private business or personal relationship and association with any applicant or applicant’s representative. If in doubt about this Members should speak with the Monitoring Officer or his/her representative before any decision is made.

**6. Applications submitted by the council, councillors (members) or officers**

- 6.1. Licence applications by the council for its own use could give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for licences associated with the council's own use will be treated no differently from any other application.
- 6.2. Certain Members may through their other roles outside of a Licensing Committee, have been heavily committed to or involved in a Council's own licensing proposals. In such circumstances, when an item comes to be considered at Committee the Member concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer.

**Applications Submitted by Members or Officers**

- 6.3. It is perfectly legitimate for licensing applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.
- 6.4. If a Member or an officer submits their own licensing proposal to the Council which they serve, they should take no part in its processing and/or determination. A Member who acts as an agent or representative for someone pursuing a licensing matter with the authority should also take no part in its processing and/or its determination.
- 6.5. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:
  - Members of the Council
  - Senior officers of the Council (Service Head and above)
  - Officers of the Local Licensing Authority.
- 6.6. The term "Officers of the Local Licensing Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's licensing function and include all external persons such as lawyers, contractors and advisors who work for the Local Licensing Authority.

**7. Lobbying**

- 7.1. Those who may be affected by a licensing decision, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Licensing Committee.
- 7.2. A Licensing Committee Member should explain to those lobbying or attempting to lobby them that it they were to discuss the matter with them that there is a danger that they would be seen to be predetermined Licensing Committee Members should therefore:
  - 7.2.1 Suggest to lobbyists that they submit written representations (within the permitted timeframe) to the Licensing Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
  - 7.2.2 Pass on any lobbying correspondence received (including plans, data, correspondence in respect of an application) to the Licensing Service as soon as practicably possible so that, if appropriate, it can be taken into account and included in the report on the application;

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- 7.2.3 Remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- 7.2.4 Not accept gifts or hospitality from any person involved in or affected by a licensing proposal, but if a degree of hospitality is unavoidable (e.g., refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality and inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying.

### **8. Post-submission discussions**

- 8.1. A Licensing Committee Member should not usually be involved in discussions with an applicant or agent when a licensing application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.
- 8.2. If a Licensing Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Licensing Committee Member should report to the licensing team any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the licensing file.
- 8.3. Licensing Committee Members should not attend post-submission meetings that are not organised through officers.
- 8.4. Members should report any substantive discussion with applicants to the licensing team.

### **9. Site visits**

- 9.1. The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the licensing application and which would not be apparent from the licensing application to be considered by a Licensing Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Discussions on site visits shall be confined to the application as currently submitted.
- 9.2. The Chair (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- 9.3. Under the Chair's guidance the role of the Licensing Officer attending the site visit will be to brief Members on the licensing applications(s) the subject of the visit.
- 9.4. Officers shall ensure, where practical, that applicants and Members are invited to attend the visit and that they are able to view all key parts within or adjoining the site.
- 9.5. Whilst on site visits, Members of Licensing Committee should not express an opinion on the licensing application or its merits, and should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination.
- 9.6. A site visit should not be on the basis of exposing Members of the Licensing Committee (including sub-committees) to local opinion but should be to explore the licensing issues in the application.



## **10. Licensing appeals**

- 10.1. Licensing decisions can be appealed to the Magistrates Court, they can be challenged in the High Court and they can be the subject of a complaint to the Local Government Ombudsman. Members are required to act largely in a quasi-judicial role, without reference to their political considerations and taking into account the issues which the law says are relevant to the decision.
- 10.2. An appeal against the decision of the Licensing Committee is made to the Court while a complaint about the way in which that decision was made can be made to the Ombudsman.
- 10.3. Where the Licensing Committee refuses or allows an application and there is an appeal Members may attend the appeal as observers if they so wish. The decision of the Committee will be documented in the minute and set out in the decision notice.

## **11. Licensing enforcement**

- 11.1. Members should bring to the attention of the Licensing Service suspected breaches of licensing law so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the licensing team.

## **12. Councillor training**

- 12.1. All new Members, newly appointed Chairs and returning Members of the Council's Licensing Committees should attend annual induction or refresher training at the earliest date possible and ideally before the first committee meeting. Other Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

## **13. Meetings of the licensing committee**

- 13.1. No material revision to any licensing application shall be considered at any Licensing.
- 13.2. Committee unless it has been submitted at least 14 clear days before the relevant Licensing Committee meeting, and has been the subject of a written report prepared by the licensing department and any necessary public consultation has taken place.
- 13.3. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item This may be by recorded vote.
- 13.4. For the good conduct of the meeting the Chair should ensure:
  - 13.4.1 Members' comments at Committee only relate to the licensing merits of the application before them;
  - 13.4.2 Reference at Committee to non-licensing objectives issues by Members and those giving evidence are discouraged;
  - 13.4.3 The cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined;
  - 13.4.4 Residents and applicants understand that the late submission of further representations could lead to the deferral of the meeting and the further representations may not be permitted without agreement of all parties.

## Part 4F

### Members' Planning Code

#### 1. Purpose of this code

- 1.1 This Planning Code has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct expected of the Council in the exercise of its planning powers.
- 1.2 Members should abide by both this Planning Code and also the Code of Conduct for Members.
- 1.3 The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds in an open and transparent manner. The Planning Code is also designed to assist Members and Officers in dealing with approaches from property owners, developers and residents.
- 1.4 If Members have any doubts about the application of this Planning Code they should seek early advice preferably well before any meeting takes place from the Monitoring Officer.

#### 2. Context

- 2.1 The planning process has the potential to deliver sustainable planned growth aspirations for the borough and planning decisions are often based on balancing competing interests (social, economic and environmental). Decision makers must make decisions in accordance with Local Plan policies unless material planning considerations indicate otherwise regardless of personal or political allegiances.
- 2.2 Planning decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public engagement as part of the decision-making process. It is important that the decision-making process is open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. Opposing views are often strongly held by those involved. Whilst Councillors who sit on planning committees must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. The expectation is that members who sit on planning committees will be fair and reasonable when making decisions.
- 2.4 The aim of this Code is therefore to ensure that the Council's processes are sound and that decisions are lawful, consistent and procedurally correct.

#### General roles of Councillors and officers

- 2.5 Councillors and officers have different but complementary roles. Both serve the public. Officers are responsible to the Council as a whole through the Chief Executive, whilst Members are responsible to the electorate.
- 2.6 Planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

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- 2.7 Planning officers, who are Members of the Royal Town Planning Institute (RTPI), are subject to a professional code of conduct and breaches may be subject to disciplinary action by the RTPI. Similarly, officers who are solicitors are subject to regulation by The Solicitors Regulation Authority. Officers in other professions will have corresponding codes.
- 2.8 Members must not put pressure on officers to put forward a particular recommendation or deal with a planning matter in a particular way. This does not prevent a Councillor from asking questions or submitting views to an officer. These views, when received in written form, will be placed on the planning file and considered together with other material planning considerations.

### 3. Member interests

- 3.1 It is always best to identify a potential interest early on. If a Councillor thinks that they may have an interest in a particular matter to be discussed at a Planning Committee he or she should raise this with the Monitoring Officer as soon as possible.
- 3.2 Members should declare pecuniary and non-pecuniary interests at the start of the meeting or as soon as they become aware of the interest. If in doubt about their interests they should consult with the legal adviser, preferably in advance of the meeting.
- 3.3 Where a Member has a pecuniary interest relating to an item under discussion, the Councillor may not participate in any discussion of the matter at the meeting or participate in any vote on the matter. Councillors who have a pecuniary interest must leave the room. This also means that a Councillor with a pecuniary interest is precluded from making representations orally to the committee, either as a Councillor or in a private capacity, and precluded from making representations on behalf of a party to the hearing.
- 3.4 A Councillor with a pecuniary interest can still present their views to the committee through other means:
- make written Representations to officers; in accordance with the normal consultation process for planning applications. The existence and nature of the interest should be disclosed in such representations and the Councillor should not seek preferential consideration for their representations;
  - arrange for another Member to represent the views of the Councillor's constituents.
- 3.5 Conflicts of Interest: all Members must be seen as impartial; this may be a particular issue for Members who have in-borough property related business activity and who are more likely than others to be uncomfortable in the role of planning committee member by reason of the combined pressures of their private local business interests, the Ward Member advocate role, and the constraints of the planning system. Members with a property-related background may also give rise to a perception by residents that such Members are more likely to be in favour of the development even where they are determining cases completely impartially.
- 3.6 In order to minimise the risk to the Council and the Member concerned s/he should discuss any conflict of interest with the Monitoring Officer if they are nominated to a planning committee.

**4. Predisposition, predetermination and bias**

- 4.1 Planning Committee Members need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application, on planning policies or on other planning matters, such as enforcement. Avoidance of bias or predetermination or the appearance of bias or predetermination is a legal requirement that the decision maker must respect.
- 4.2 A distinction needs to be made between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a “closed mind” approach and likely to leave the committee’s decision susceptible to legal challenge by Judicial Review.
- 4.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the material considerations presented at the committee and keep an open mind before deciding on how to exercise their vote (predisposition). The latter is acceptable, the former is not and may result in a Court quashing such planning decisions.
- 4.4 The law provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in the light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 4.5 For example, a Councillor who states “Windfarms are blots on the landscape and I will oppose each and every windfarm application that comes before the committee” will be perceived very differently from a Councillor who states: “Many people find windfarms ugly and noisy and I will need a lot of persuading that any more windfarms should be allowed in our area”. The former has a closed mind and is predetermined, whereas the latter is predisposed but still has an open mind.
- 4.6 A Planning Committee Member who has been lobbied and wishes to support their constituents or is a Ward Councillor and wishes to campaign for or against a proposal, will need to consider whether this is likely to be regarded as amounting to bias and going against the fair determination of the planning application. If they have predetermined the matter or have given that impression, they should avoid being part of the decision-making body for that application.
- 4.7 Participation as a Member in a Planning Committee where a Councillor is or may be perceived to be biased, in addition to the risk of a complaint against the individual Councillor, also places the decision of the Committee at risk from legal challenge. As such, if a Planning Committee Member considers that they are or have given the impression that they are biased or predetermined they must carefully consider whether it is appropriate for them to participate in the matter.
- 4.8 A Member should stand down from any agenda item where they have a relevant and current or recent private business or personal relationship and association with any applicant or applicant’s representative. If in doubt about this Members should speak with the Monitoring Officer or his/her representative before any decision is made.

## **5. Applications Submitted by the Council, Councillors or Officers**

### ***Applications submitted by the Council***

5.1 Proposals for the Council's own development can give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted to and determined by the Council. Proposals for a Council's own development will be treated no differently from any other application.

5.2 Certain Councillors may through their other roles outside of a Planning Committee, have been heavily committed to or involved in a Council's own development proposal. In such circumstances, when an item comes to be considered at Committee the Councillor concerned, if they sit on the Committee, must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias. If in doubt, they are encouraged to seek advice from the Monitoring Officer.

### ***Applications submitted by Councillors or officers***

5.3 It is perfectly legitimate for planning applications to be submitted by Councillors and officers. However, it is vital to ensure that they are handled in a way that gives no grounds for accusations of bias or pre-determination.

5.4 If a Councillor or an officer submits their own proposal to the Council which they serve, they should take no part in its processing and/or determination. A Councillor who acts as an agent or representative for someone pursuing a planning matter with the authority should also take no part in its processing and/or its determination.

5.5 The planning application form requires an applicant to indicate whether they are a member of staff or an elected Member or a partner/spouse of a Member or Officer of the Council. Where decisions relate to applications made by Members of staff or an elected Member these should be reported to Committee where they relate to the following:

- Members of the Council
- Senior officers of the Council (Service Head and above)
- Officers of the Local Planning Authority.

5.6 The term "Officers of the Local Planning Authority" means officers within the Council who are closely involved in the day-to-day work of the Council's planning function and include all external persons such as lawyers, contractors and advisors who work for the Local planning Authority.

## **6. Lobbying**

6.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Councillor or to a Member of the Planning Committee.

6.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves".

6.3 Lobbying, however, can lead to the impartiality and integrity of a Councillor being called into question, unless care and common sense is exercised by all the parties involved.

6.4 A Planning Committee Member should explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may prejudice their impartiality and ability to participate in the Committee's decision making if they are asked to express either an intention to vote one way or another or such a firm point of view that it amounts to the same thing. Planning Committee Members should ensure that it is made clear to any lobbyists that they will only be in a position to reach a final decision on any planning matter after they have heard all of the relevant arguments and looked at the relevant information during the sitting of the determining Committee.

6.5 Planning Committee Members should therefore:

- suggest to lobbyists that they write to the Planning Service in order that their views can be included in the officer reports prepared for determination under delegated powers or by Committee;
- pass on any lobbying correspondence received (including plans, data, correspondence in respect of an application) to the Planning Service as soon as practicably possible so that it can be taken into account and included in the report on the application;
- remember that their overriding duty is to the whole community not just to the residents and businesses within their ward and that they have a duty to make decisions impartially and should not improperly favour, or appear to improperly favour, any person, company, group or locality;
- not accept gifts or hospitality from any person involved in or affected by a planning proposal, but if a degree of hospitality is unavoidable (e.g. refreshments at a meeting), ensure that they comply with the provisions in the Members' Code of Conduct on gifts and hospitality and inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying.

## **7. Pre-application discussions**

7.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged by the National Planning Policy Framework. However, it would be easy for such discussions to become, or to be seen by objectors to become, part of a lobbying process on the part of the potential applicant. If potential applicants seek to meet Planning Committee Members then any such pre-application meeting should be organised through officers.

## **8. Post-submission discussions**

8.1 A Planning Committee Member should not usually be involved in discussions with a developer or agent when a planning application has been submitted and remains to be determined. Potentially, these discussions could be interpreted, particularly by objectors to a proposal, as an indicator of predetermination or bias.

8.2 In limited circumstances Planning Committee Members may legitimately engage in post-submission discussions. An example would be in the case of a large-scale development, where it is desirable for there to be a full understanding of the Council's planning and economic objectives. Such meetings will be organised by officers and recorded in the planning file.

## London Borough of Barnet - Constitution

- 8.3 If a Planning Committee Member is contacted by the applicant, their agent or objectors, they should follow the rules on lobbying and consider whether or not it would be prudent in the circumstances to make notes when contacted. A Planning Committee Member should report to the Chief Planning Officer any significant contact with the applicant or other parties, explaining the nature and purpose of the contacts and their involvement in them, so that it can be recorded on the planning file.
- 8.4 Planning Committee Members should not attend post-submission meetings that are not organised through officers.
- 8.5 Councillors should report any substantive discussion with applicants to the chief planning officer.

### **9. Site visits**

- 9.1 The purpose of a site visit conducted by Members and officers is to gain information relating to the land or buildings which are the subject of the planning application and which would not be apparent from the planning application to be considered by the Planning Committee. A site visit may also assist Members in matters relating to the context of the application in relation to the characteristics of the surrounding area. Discussions on site visits shall be confined to the application as currently submitted.
- 9.2 The Chairman (or Member chairing the visit) shall explain the purpose of the visit and how it will be conducted to all persons present at the site visit.
- 9.3 Under the Chairman's guidance the role of the Planning Officer attending the site visit will be to brief Members on the planning application relevant to the visit.
- 9.4 Officers shall ensure, where practical, that applicants and Members are invited to attend the visit and that they are able to view all key parts within or adjoining the site.
- 9.5 Whilst on site visits, Members of Planning Committee should not express an opinion on the planning application or its merits, and should avoid making comments or acting in a way which makes it clear beyond doubt that they have a completely closed mind, as this would amount to predetermination. They should avoid discussions with either the applicant or objector on site visits.
- 9.6 Members should make every effort to attend site visits organised by officers. Members of the planning committee who were not present at a pre-arranged site visit should not seek to defer consideration of the planning application.
- 9.7 A site visit should not be arranged on the basis of exposing Members of the Planning Committee to local opinion but should be to explore the planning issues in the application.
- 9.8 Members should only attend site visits with Officers.

### **10. Planning Appeals**

- 10.1 Appeals against the planning decisions of the Council are heard by a Planning Inspector appointed by the Secretary of State. Any hearing or inquiry will be open to the public and Councillors are able to attend. Councillors are encouraged to attend such hearings, as they can be a good learning experience. This part of the Code is concerned with Councillors who wish to actively participate in these appeals.
- 10.2 If a Councillor wishes to attend a public inquiry or informal hearing as a Ward Councillor or as a member of the public, they are free to do so. It is strongly recommended that they

discuss their participation with the chief planning officers to ensure that they are aware of the process and that they do not act in a manner which compromises their position as a Member of the Council, brings the Council into disrepute or puts the decision made at risk of challenge.

10.3 Where the Strategic Planning Committee or a Planning Committee refuses an application against the officer's recommendation one Member of the Committee should support the planning officer assigned to the appeal with the Council's case. The decision of the Committee will be documented in the minute and set out in the decision notice. The planning officer will present the Council's case on its planning merits, in accordance with the Committee's decision with such assistance from the nominated Committee Member as may be required.

10.4 Where the decision of planning committee members is contrary to the officer's recommendation, officers are generally able to present the Council's case in a satisfactory manner. Where this may not be possible, the case will be presented by a planning consultant engaged by the Council.

## **11. Planning Enforcement**

11.1 Councillors should bring to the attention of the Planning Service suspected breaches of planning law so that they may be investigated to see whether any action is possible or necessary. They should bring these to the attention of the chief planning officer.

## **12. Councillor training**

12.1 All Planning Committee Members, must attend induction training immediately after a Borough election at the earliest date possible and ideally before the first committee meeting and are encouraged to attend all other planning training which takes place. Other Members are encouraged to attend the training so that they can ensure that they keep up-to-date on these matters.

## **13. Meetings of the Planning Committee**

13.1 If the Planning Committee seeks to make a decision contrary to the planning officer's recommendation an agreed procedure will be followed. The Courts have expressed the view that the planning reasons for the contrary decision should be clearly recorded which means that members may be required to openly state in the meeting as to how and why they reached a contrary view.

13.2 Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item.

13.3 The Chair should ensure:

- Members' comments at Committee only relate to the planning merits of the application before them;
- reference at Committee to non-planning issues by the public / Members are discouraged as this can lead to decisions being made on non-material planning considerations and the decision of the committee being challenged;
- the cross-questioning of speakers should only take place if there is need for clarification of what a speaker has already outlined;



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- Residents and applicants understand that the late submission of evidence could lead to the deferral of the item and may not be permitted without agreement of all parties.

## Part 4G

### Code of Conduct for Officer Member Relations

#### 1. Context

- 1.1 This Code is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government. This Code also covers officers who work for other organisations such as Barnet Homes.
- 1.2 The Council has endorsed this Code as setting the standard for the conduct between Officers and Members.
- 1.3 Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of residents in their wards.
- 1.4 The Officers of the Council will support all Members to enable them to perform these roles effectively in the interests of the Council and residents. They will provide support, information and advice to Members to help them in these roles in accordance with these protocols.
- 1.5 The organisational role of Officers has two important dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.
- 1.6 Professional Officers reasonably expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not be required to make recommendations they cannot professionally support) and the chance to 'explain' what appears to be a performance failure or inconsistency.
- 1.7 In addition, Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of officers to manage the implementation of policy. This does not necessarily imply no Member involvement in implementation issues, however Members set the direction of travel and Officers are responsible for the implementation of policy.
- 1.8 Officers serve the whole Council. They work to the instructions of their line manager through to the Chief Executive - not individual Members of the Council, whatever office the Member might hold.
- 1.9 In relation to staffing matters Members and officers will comply with Human Resource procedures and regulations.

#### 2. Performance of officers

- 2.1 Members have a right to constructively challenge and comment on reports or the actions taken by Officers, but they should always:
  - avoid personal attacks on Officers
  - ensure that constructive challenge is presented in a reasonable manner.
- 2.2 Complaints about officers or council services should be made to the relevant Director, Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate. Members have

a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort.

2.3 Members should avoid undermining Officers at meetings, or in any public forum. This would be damaging both to effective working relationships and to the public image of the Council. In general Officers are unable to 'answer back' or defend themselves against criticism in a public forum.

### 3. **Political Neutrality of Officers**

3.1 There is statutory recognition for party political groups and sometimes consultation is required with committee Chairs and Portfolio Holders.

3.2 The extent to which it is appropriate for officers to attend meetings with Members depends on the nature of the meeting, but the general principles governing the basis on which they attend and take part are the same. In principle, equivalent access to officers time is available to all political groups represented on the Council if they so request.

3.3 Information received by officers at these meetings may be shared with other officers as is necessary but should not be shared with Members of another Political Party unless this is agreed and necessary.

### 4. **Political Group Meetings:**

4.1 Officers, apart from political assistants, should not attend political party group meetings, or party political meetings involving party colleagues who are not members of the Council, without the agreement of the Chief Executive/Chief Officer. Conversely, the Chief Executive may arrange meetings with, or presentations to, party groups on particular topics.

4.2 Officers may make presentations to party groups of members of the Council on request. All requests for advice of this kind should be routed through the Chief Executive/Chief Officer who would be responsible for advising the other groups who could then ask for the same briefing.

4.3 Officers may attend briefing meetings with the Leader of the Council, Portfolio Holders, Chairs and Vice-Chairs, either on a specific topic or prior to a formal meeting or the like.

### 5. **Other meetings:**

5.1 Officers may attend for briefing with the Leader, Portfolio Holders and/or Lead Members of all political parties on the Council in their offices.

5.2 The Leader of the Council may arrange regular meetings and invite Directors and other senior officers to attend.

5.3 Officers may meet Portfolio Holders and/or Chairs prior to consulting them formally as a precondition to exercising delegated powers.

5.4 For other meeting approval should be sought by officers from their Chief Officer.

5.5 Any particular case of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

5.6 Officers must never allow their own personal or political opinions to interfere with their work.

5.7 Senior officers and political assistants are subject to legal rules limiting their political

activities outside work.

## 6. Personal relationships

6.1 Good working relationships between Officers and Members are at the heart of good local government.

6.2 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

“Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual councillors and officer can damage this relationship and prove embarrassing to other Councillors and Officers”.

6.3 The Nolan report\* provides the following quote to illustrate its view of the correct spirit of Member-Officer relations:

“I do not think it is part of the proper relationship between Officers and Councillors if Officers are somehow seen in public as people who can be appropriately harangued or criticised or told that they do not know what they are doing. I think that the best relationship between Officers and councillors is much more a partnership relationship”

Gerry Stoker, Professor of Government, University of Strathclyde.

6.4 Members should declare to their Group Leader and to the Chief Executive / Monitoring Officer any external relationship with an Officer which might be seen as influencing their work as a Member. Officers, too, have a duty to declare any such relationship to their Director or Head of Service.

6.5 Members must not sit on or participate in decisions by any Council committee or other Council body which directly affects an employee to whom they are:

- the partner
- otherwise closely related such as sisters, brothers, parents and grandparents
- in any other relationship which would jeopardise the work of the Council or make their attendance improper.

6.6 Members should remember that Officers cannot respond to personal criticism in the same way that politicians can and should make their comments accordingly. Members need to be especially careful about contact with less senior staff and must avoid deliberately or unwittingly intimidating staff.

6.7 Councillors are expected to deal in the first instance with the Executive Directors, Directors, Assistant Directors and Heads of Service. This is because:

- Chief and senior officers are in a better position to provide authoritative information or advice;
- They need to be aware of any questions or complaints raised by Councillors;
- They are able to respond to Councillors requests, for example by making a judgement as to whether action may be taken under officers' delegated authority; and
- They are able to investigate and deal with any shortcomings there might be at the point of service delivery

- 6.8 In addition, this avoids the possibility of junior staff being ‘intimidated’ or even ‘bullied’ by over-enthusiastic Members.
- 6.9 It is especially important that there should be a close working relationship between Portfolio Holders, Chairs, Vice Chairs and senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers’ ability to deal impartially with other Members and other party groups.
- 7. Working with Overview and Scrutiny**
- 7.1 Overview and Scrutiny Committees have the power to require members of the Executive and officers to appear before them and answer questions. Barnet’s Constitution states that officer attendance should be by the Head of Paid Service, Executive Director or Director, but that they may, if appropriate arrange for other staff to attend meetings to assist.
- 7.2 The Head of Paid Service has overall responsibility for ensuring that staffing support is adequate. It is not anticipated that officers will be faced with conflicts of interest in having to serve both Executive and Scrutiny, but should any problems arise, they should be raised with the Head of Paid Service.

Further information about Councillor and officer involvement in Overview and Scrutiny can be found in the Committee Procedure Rules.

# London Borough of Barnet Code of Corporate Governance

2023/24



To deliver good governance within the Council, all councillors, officers and partners should strive to achieve the Council's objectives while acting in the public interest. This should result in positive outcomes for service users and other stakeholders.

The Council should keep governance arrangements up to date and relevant. The main principle underpinning the development of the new Delivering Good Governance in Local Government Framework 2016 (CIPFA/Solace) continues to be that local government is developing and shaping its own approach to governance, taking account of the environment in which it now operates. The overall aim is to ensure that resources are directed in accordance with agreed policy and according to priorities, that there is sound and inclusive decision making, and that there is clear accountability for the use of those resources, in order to achieve desired outcomes for service users and citizens.

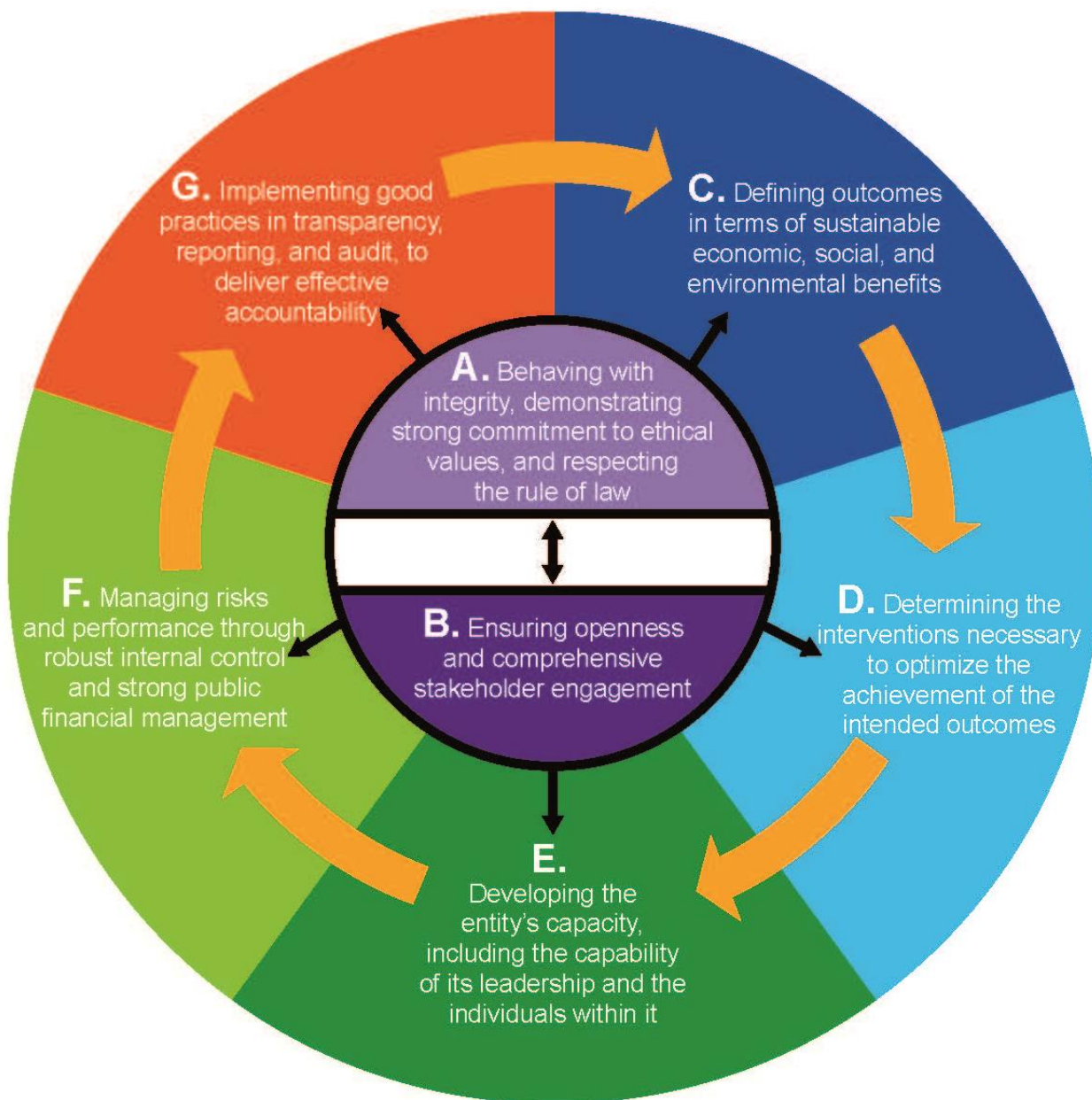
As outlined in the CIPFA Framework, the governance processes and structures focus on achieving economic, societal, and environmental outcomes. Furthermore, the focus on sustainability and the links between governance and public financial management are crucial – the Council recognises the need to focus on the long-term. The Council has responsibility to more than their current electors and should take account of the impact of current decisions and actions on future generations.

The core principles and sub-principles of good governance and how they are met at Barnet are set out in the table below. However, good governance cannot be achieved by rules and procedures alone. Shared values that are integrated into the culture of the organisation, and are reflected in both behaviour and policy, are hallmarks of good governance.

The Council produces an Annual Governance Statement to report publicly on the extent to which the Council complies with its local code and this is a statutory requirement.

## Principles of Good Governance

### *Relationships between the Principles for Good Governance in the Public Sector*





## A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law

Supporting Principles	How the Principles are met by the Council
Ensuring Members behave with integrity and develop robust policies which place emphasis on agreed ethical values.	The Principles of Public Life are established within the Members Code of Conduct. The Code outlines the behaviours and values that are required when acting in the capacity of an elected Councillor. The Council's Monitoring Officer is responsible for promoting and maintaining high standards of conduct. The Governance, Audit, Risk Management and Standards (GARMS) Committee receives regular reports on councillor conduct complaints.
Seeking to establish, monitor and maintain the Council's ethical standards and performance.	The GARMS Committee consider and make recommendations to Council on how it can satisfy the continuing duty to promote and maintain standards of conduct by Members, as well as ethical standards in general across the authority.  A Standards Sub-Committee is in place to investigate and determine allegations of any breaches of the code.
Ensuring that external providers of services on behalf of the Council are required to act with integrity and in compliance with ethical standards.	Contractors must act in compliance with all relevant council policies and the law.
Creating the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements.	All Council and committee reports are subject to clearance procedures, to ensure decisions taken are compliant with the budget and policy framework, the law and the council's Constitution. Comprehensive schemes of delegation are in place detailing how chief officers will discharge the statutory powers within their remit. The Assurance directorate is responsible for governance and compliance and includes Internal Audit, Governance and the statutory Monitoring Officer. Members oversight is through the council's formal governance arrangements, primarily Cabinet and Overview & Scrutiny committees and sub-committees and their review of financial and corporate performance information, the GARMS Committee and Full Council.
Dealing with breaches of legal and regulatory provisions effectively.	Appropriate action is taken by the Council's legal services (Harrow & Barnet Public Law) with oversight by the Monitoring Officer in liaison with officers within the Assurance directorate .
Ensuring corruption and misuse of power are dealt with effectively.	The Monitoring Officer and Corporate Anti-Fraud Team investigate all allegations of fraud and irregularities across the council and its partners.

## B. Ensuring openness and comprehensive stakeholder engagement.

Supporting Principles	How the Principles are met by the Council
<p>Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used.</p>	<p>Council, Cabinet, committee, and delegated powers reports cover the options available and the reasons for recommendations. Every report sets out why the report is needed, reasons for the recommendation(s) and alternative options considered but not recommended. The formal minutes of Council, Cabinet and committee meetings will record the reasons for Members decisions, which are then published on the council's website.</p>
<p>Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully.</p>	<p>Where formal partnerships exist between institutional bodies, joint strategies and plans are developed in a collaborative way and jointly adopted through the partnership.</p> <p>Examples include the Safer Communities Strategy (agreed by the Safer Communities Partnership Board) and Health &amp; Wellbeing Strategy (agreed by the Health &amp; Wellbeing Board). In addition, the councils recently updated, Project Management Guidance provides advice on stakeholder engagement.</p>
<p>Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively.</p>	
<p>Ensuring that partnerships are based on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit.</p>	<p>Several partnerships are in place to support work in specific joint areas including community safety (Safer Communities Partnership Board), health and social care (Health &amp; Wellbeing Board), improving the wellbeing of Children across the Borough (Barnet Children's Partnership Board) and sub-regional joint working (West London Economic Prosperity Board).</p>
<p>Establishing a clear policy on the type of issues that the organisation will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service provision is contributing towards the achievement of intended outcomes.</p>	<p>A Consultation &amp; Engagement Strategy is in place which details the type of decisions that the council will consult on, who we will consult with and how feedback will inform decisions taken. Consultation takes place on any issue that affects residents such as service or policy changes, or various statutory processes (such as planning, traffic or highways matters).</p>

## C. Defining outcomes in terms of sustainable economic, social, and environmental benefits

Supporting Principles	How the Principles are met by the Council
<p>Having a clear vision, which is an agreed formal statement of the organisation’s purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation’s overall strategy, planning and other decisions.</p>	<p>The Barnet Corporate Plan: Caring for people, our places and the planet: our plan for Barnet 2023 – 2026 outlines the priorities of People, Places, Planet, and Engaged and Effective Council. The Plan outlines these priorities and how the council will work to achieve them.</p> <p>The Budget for 2023/24 and Medium-Term Financial Strategy 2023/24 – 2026/27 outlines how resources will be aligned to the strategic outcomes set out in the Corporate Plan. Performance indicators are also regularly reported to Cabinet and Overview &amp; Scrutiny committees and sub-committees.</p>
<p>Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer.</p>	<p>The intended impact of decisions will be evidenced in Council, Cabinet, committee, and delegated powers reports. Equality issues will be further evaluated within equality impact assessments.</p>
<p>Delivering defined outcomes on a sustainable basis within the resources that will be available.</p>	<p>The Corporate Plan and Budget and Medium-Term Financial Strategy set out the council’s strategic priorities and how resources will be allocated to support these.</p> <p>All committee reports must include a section on resources implications.</p>
<p>Identifying and managing risks to the achievement of outcomes.</p>	<p>A Risk Management Framework is in place and a Corporate Risk Register is maintained, which is published as part of the annual Business Planning report taken to Cabinet and Full Council. Mitigating actions are put in place where required. Risks are reported periodically to Council Management Team, Cabinet, Overview &amp; Scrutiny committees, and the GAMRS Committee.</p>
<p>Managing service users’ expectations effectively with regard to determining priorities and making the best use of the resources available.</p>	<p>Where appropriate, and in compliance with statutory duties, public consultation is carried out with service users. The Council also maintains an effective Citizens Panel which informs priorities and resource allocation.</p>
<p>Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision.</p>	<p>Committee reports cover this principle and strategic cross-borough planning is also undertaken in liaison with the Mayor of London and the West London Economic Prosperity Board.</p>

Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social, and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs.	Committee reports cover this principle, with alternative options considered and implications of all decisions being outlined in every report. The Medium-Term Financial Strategy also covers these principles
Ensuring fair access to services.	Committee reports will cover equality legislation and ensure that decision-makers are aware of impact upon citizens with the protected characteristics. Equality impact assessments are completed where relevant. The Council also ensures impacts on other disadvantaged local citizens are considered.

<b>D. Determining the interventions necessary to optimise the achievement of the intended outcomes</b>	
<b>Supporting Principles</b>	<b>How the Principles are met by the Council</b>
Determining the right mix of corporate (legal, assurance, regulatory, and finance) interventions to ensure intended outcomes are achieved.	The Chief Executive in liaison with Chief Officers carries out this determination quarterly, in liaison with Chief Officers.
Decisions made need to be reviewed frequently to ensure that achievement of outcomes is optimised.	Committee reports detail post-decision implementation steps. If outcomes are not delivered, the relevant chief officer will ensure that the decision is reviewed, and remedial steps taken.
Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and of associated risks – therefore ensuring best value is achieved however services are provided.	Chief Officers and their direct reports evaluate options and give appropriate advice to decision-makers. Committee reports include sections on ‘Alternative options considered and not recommended’, ‘implications of decisions’ and ‘Risk management’.
Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available.	Feedback from public consultations and the Citizens Panel is set out within relevant committee reports and delegated powers reports and used to inform decision making.

Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets.	Quarterly reporting to the Cabinet and Overview & Scrutiny committees and sub-committees including results of key performance indicators and the management of strategic contracts. In addition, an annual planned programme of work is undertaken by Internal Audit.
Considering and monitoring risks facing each partner when working collaboratively, including shared risks.	Shared risks are identified in a register and reviewed at least quarterly; significant risks facing each partner are subject to quarterly review.
Ensuring arrangements are flexible and agile so that the mechanisms for delivering goods and services can be adapted to changing circumstances.	When making a decision, or making recommendations to Members regarding a preferred option, Chief Officers take into account the following: delivery of high-quality services; value for money; and the scope to vary arrangements to take into account changing circumstances.
Establishing appropriate key performance indicators (KPIs).	The Corporate Plan details the KPIs required to deliver the council's objectives.
Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term.	As set out within the Constitution's Financial Regulations and the Medium-Term Financial Strategy.

### **E. Developing the entity's capacity, including the capability of its leadership and the individuals within it**

<b>Supporting Principles</b>	<b>How the Principles are met by the Council</b>
Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness.	An Asset Management Plan is in place, which provides a strategic approach to the management of property assets (approved and overseen Cabinet). Performance reports are presented to Cabinet and Overview & Scrutiny committees and sub-committees which detail KPIs and financial monitoring. Chief Officers are responsible for the performance of services within their remit and a Commercial Team is in place for oversight and management of key strategic contracts.
Improving resource use through application of techniques such as benchmarking to determine how resources are allocated so that defined outcomes are achieved effectively.	CIPFA benchmarking exercises are undertaken across the Council. Best practice reviews are undertaken as part of service improvement initiatives.
Recognising partnership benefits and collaborative working where added value can be achieved.	Full engagement through the Barnet Partnership Board, sub-regional partnerships (such as the West London Alliance), the Mayor of London and Greater London Assembly, London Councils and with public sector partners, particularly Health and the Police.

<p>Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body.</p>	<p>The Constitution is explicit about which decisions are reserved to Council, Cabinet or committees and which are delegated to officers. Chief Officers maintain schemes of delegated authority that are published and regularly updated.</p>
<p>Ensuring the Leader and the Chief Executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services set by members.</p>	<p>The Constitution details the roles and responsibilities of the Leader and Executive (Article 6 and Part 2C) and Chief Executive (Part 2G). The Leader and councillors set the councils' priorities and strategic direction; the Chief Executive is responsible for delivering these priorities, supported by Chief Officers.</p>
<p>Developing the capabilities of Members and officers, including induction, continuing professional development training, and lessons learnt from governance weaknesses.</p>	<p>A Member Development Programme is agreed and implemented during each council cycle. Members must attend mandatory training before serving on some committees (i.e., planning and licensing) and are strongly encouraged to keep their knowledge and skills up to date in relation to the committees that they serve on. A comprehensive induction programme is provided to all new Councillors following the local elections, as well as following any by-elections. The Council has now achieved 'Charter Status; for its Member Development Programme and will be working with Councillors towards the achievement of 'Charter Plus' status.</p> <p>Officers have an induction programme, a corporate learning and development programme and an e-learning Hub is in place. Where governance weaknesses are identified, remedial actions are put in place and delivery is monitored. Officers have also undertaken a self-assessment against the Centre for Governance &amp; Scrutiny's Risk and Resilience Framework (which considers organisational culture and behaviours) and reviewed governance issues at other local authorities to identify lessons learnt.</p>
<p>Ensuring that there are structures in place to encourage public participation.</p>	<p>Public participation rights are set out in the Constitution (Council, Cabinet and Committee Procedure Rules); decisions that affect residents are usually the subject of public consultation.</p>
<p>Holding staff to account through regular performance reviews which take account of training or development needs.</p>	<p>Performance Related Pay is in operation within the Council. Performance Reviews consider training / development needs and ensure that these are addressed.</p>
<p>Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</p>	<p>Arrangements are put in place by Human Resources with oversight by Licensing &amp; General Purposes Committee (which has responsibility for HR matters).</p>

## F. Managing risks and performance through robust internal control and strong public financial management

Supporting Principles	How the Principles are met by the Council
Implementing robust and integrated risk management arrangements and ensuring that responsibilities for managing risks are clearly allocated.	A Risk Management Framework is in place, with officer responsibilities clearly allocated. Strategic risks will be reported to the Cabinet, Overview & Scrutiny committee and Chief Officers.
Monitoring service delivery effectively including planning, specification, execution and independent post implementation review.	Chief Officers are responsible for delivering services within their respective portfolios including specifying outcomes/outputs, monitoring performance, contract management and post-implementation reviews. Internal Audit provide independent assurance on key financial systems and areas of service delivery on a risk-based approach.
Making decisions based on relevant, clear objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook.	All committee reports and delegated powers reports require information on relevant risks and how these will be managed.
Encouraging effective and constructive challenge and debate on policies and objectives to support balanced and effective decision making.	A 'Committee System' governance structure is in place (distinct from a Leader/Cabinet model) which permits cross-party political discussion at all committee meetings on major strategic decisions. All Members are entitled to submit one Members item for an agenda for a meeting of a committee or sub-committee on which they serve. Members are also entitled to attend and speak at any committee meeting by giving notice to the Chairman before the start of the meeting.
Providing Members and senior management with regular reports on service delivery plans and on progress towards outcome achievement.	Regular reports will be taken to the Cabinet and Overview & Scrutiny committees. Chief Officers are provided regular updates and reports via the Council Management Team meetings.
Ensuring effective counter fraud and anti-corruption arrangements are in place.	Responsibilities are set out within the Constitution and Code of Conduct. In addition, the Corporate Anti-Fraud Team is in place within the Assurance Group with the necessary specialist skills to undertake various types of fraud and anti-corruption investigations.
Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor.	Assurance undertaken by Internal Audit within the Assurance Group with a plan of work being approved by the GARMS Committee on an annual basis.
Ensuring an Audit Committee or equivalent group function provides a further source of effective assurance	Assurance provided by the Cabinet, Overview & Scrutiny committees and sub-committees and also by the GARMS Committee.

regarding arrangements for managing risk and maintaining an effective control environment.	
Ensuring effective arrangements are in place for data use and storage and when sharing data with other bodies.	Arrangements in place with the Information Management and Insight & Intelligence Teams.

## G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability

Supporting Principles	How the Principles are met by the Council
Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style.	Report writing guidance is in place to clarify information required in each section of reports. Officers, via the report clearance process, review the content and structure of reports to ensure that they can be understood by the public and stakeholders. The Governance Service offers report writing workshops to departments across the council, to provide advice and training on how to ensure reports are easy to understand not unnecessarily complex.
Providing sufficient information to satisfy transparency demands while not being too onerous for users to read and understand.	The Open Barnet data portal can be accessed via the council's website. Published datasets and other information of interest can be searched via one searchable database for anyone to access. Council, Cabinet, committee and delegated powers reports are available on the website.
Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including an action plan for improvement.	The Council produces an Annual Governance Statement, which provides a self-assessment of compliance with the Framework and actions which need to be undertaken to address any governance or practice weaknesses identified. The statement is reported to the GARMS Committee.
Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate.	Included within Assurance and Barnet Group protocol arrangements.
Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon.	In place through Internal Audit and the tracking of recommendations via quarterly GARMS Committee reporting.
Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the Annual Governance Statement.	Via contract clauses within our contracts with Capita, CSG Re, BELS (Barnet Education & Learning Service) and the Barnet Group the council have the right of access to their records and internal audit reports. The council can also undertake our own audits of their systems and processes and this right is exercised, with protocol / liaison meetings in place to support this.



	<p>Chief Officer structure details accountability lines for services and portfolios of activity. Public accountability requirements are met via publication of committee information on the website, opportunities for public participation, consultation on key decisions, Freedom of Information requests and information on the Open Data Portal.</p>
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# London Borough Of Barnet

## Members' Allowances Scheme

### 2023/24

#### 1. The Scheme

- 1.1. This scheme is made by Barnet London Borough Council under the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).
- 1.2. The scheme may be cited as the Barnet London Borough Council Members' Allowances Scheme and replaces all former Schemes.
- 1.3. It has effect for the period 23 May 2023 to 31 March 2024.
- 1.4. In this scheme:
  - 1.4.1 "Councillor" means an elected member of the Council of the London Borough of Barnet.
  - 1.4.2 This scheme will cover a period from 23 May 2023 to 31 March 2024
  - 1.4.3 "Co-optee" and "co-opted member" means a person not a councillor who is appointed by the Council to a committee discharging a statutory local authority function.

#### 2. Basic Allowance

- 2.1. A basic allowance of £10,809 shall be paid to each councillor.
- 2.2. Payment of the basic allowance is subject to the conditions set out in sections below.

#### 3. Special Responsibility Allowance

- 3.1. Allowances are payable to recognise the special responsibilities attached to certain positions to which councillors may be appointed. The allowances are graded in 5 bands.
- 3.2. The bands, the positions concerned and the sums payable are set out in Schedule 1.
- 3.3. No Member may receive more than one Special Responsibility Allowance in respect of the same period of time, but the Member will receive whichever is the highest of the Special Responsibility Allowances for which they qualify.
- 3.4. Other conditions attached to the payment of Special Responsibility Allowance are set out in sections below.

#### 4. Childcare and Dependent Carers' Allowance

- 4.1. An allowance of £10 per hour for a maximum of 8 hours (subject to extension in special circumstances) shall be payable to any councillor or co-opted member or member of an appeals committee established under the Education Act 1996 who incurs expenditure for the care of dependent relatives or children whilst undertaking the approved duties listed in section 4.3 below.
- 4.2. Dependent relatives and children are defined as:
  - children aged 15 years or less
  - elderly relatives requiring full-time care

- relatives with disabilities who receive full-time care

4.3. The approved duties referred to in section 4.1 above are:

- a) The attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- b) The attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that:
  - (ii) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
  - (iii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited.
- c) The attendance at a meeting of any association of authorities of which the authority is a member;
- d) The attendance at a meeting of any of the Council's committees;
- e) The performance of any duty in pursuance of a standing order requiring a member or members to be present while tender documents are opened;
- f) The performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- g) The performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools; and
- h) The carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees.

4.4. The allowance or reimbursement shall be paid on the basis of that permitted under the Income Tax Regulations.

## **5. Travel and Subsistence Allowance**

5.1. Members do not receive a travel allowance for the cost of travel within the borough.

5.2. The duties which qualify for the payment of travel outside the Borough are set out in Schedule 2 with the amounts payable set out in Schedule 3.

5.3. The duties which qualify for the payment of travel allowance to a co-opted member or member of an appeals committee established under the Education Act 1996 are set out in Schedule 2 with the amounts payable set out in Schedule 3.

5.4. The duties which qualify for the payment of subsistence allowances to a councillor, co-opted member or member of an appeals committee established under the Education Act 1996 are set out in Schedule 2 with the amounts payable set out in Schedule 3.

**6. Independent Members/ Persons and Co-optees' Allowance**

- 6.1. An allowance of £127 shall be paid to the Independent and Co-opted Members and Independent Persons of Council Committees for each meeting or training that they attend.

**7. Pensions**

- 7.1. The Local Government Pension Scheme Regulations 2013, laid before Parliament 19 September 2013 came into force 1 April 2014 ceased councillors' membership of the Local Government Pension Scheme (at the end of the term of office for existing councillors up to the election on 22 May 2014). From 1 April 2014 no Councillors have been admitted to the Scheme.

**8. Financial Limits**

- 8.1. Any payment under this scheme is subject to the budget provision for Members' Allowances during the year not being exceeded.

**9. Renunciation**

- 9.1. A councillor or co-opted member may decline to receive any part of his or her entitlement to an allowance under this scheme by notifying the Head of Governance in writing.

**10. Part-year Entitlements**

- 10.1. This section regulates councillors' entitlement to allowances if during the year:

- the scheme is amended
- the councillor is newly elected
- the councillor ceases to be a councillor
- the councillor accepts or gives up a position eligible for a special responsibility allowance.

- 10.2. If the scheme is amended so as to change the basic allowance or the special responsibility allowance then the annual amount to be paid to each councillor shall be re-calculated. The councillor will be paid a proportion of the old allowance and a proportion of the new allowance. The proportions will reflect the number of days in the year before and after (starting with the day on which the change takes effect) the change. Further amendments will be treated in the same way.

- 10.3. If during the year:

- a councillor is newly elected or ceases to be a councillor,
- a councillor accepts or gives up a position eligible for a special responsibility allowance, or
- a councillor becomes or ceases to be eligible to a special responsibility allowance because of an amendment to the scheme

then the annual amount to be paid to the councillor will be altered. The alteration will discount a proportion of the relevant allowance, to reflect the number of days in the year that the councillor was not a councillor, or was not eligible for the special responsibility allowance, as the case may be. If the scheme is amended during the year as set out in 10.2 above, then the alteration will be calculated separately for the periods before and after each amendment, in accordance with the Regulations.

**11. Claims, Payments, Repayments, Restriction to Entitlement**

- 11.1. Payments of basic allowance and Special Responsibility Allowance will be made in twelve equal monthly instalments at the end of each month.
- 11.2. If making a payment of one twelfth of the annual entitlement of basic allowance and special responsibility allowance for any member would result in a breach of the restrictions set by Section 10 of the scheme, then actual payments must be reduced to comply with those restrictions.
- 11.3. Where an allowance has already been paid for any period during which the councillor concerned:
  - a) ceases to be a councillor; or
  - b) is otherwise not entitled to receive the allowance for that period,such part of the allowance as relates to any such period shall be repaid to the Council.
- 11.4. Where a member of the authority is also a member of another authority that member may not receive allowances from more than one authority in respect of the same duties.

## Schedule 1

## Special Responsibility Allowances 23 May 2023 to 31 March 2024

BAND	SRA (£)	POSTS COVERED
5	33,466	Leader of the Council
4	26,510	Deputy Leader of the Council
3	15,093	<p><b><u>Portfolio Holders:</u></b></p> <p>Resources &amp; Effective Council            Adults &amp; Social Care            Culture, Leisure, Arts &amp; Sports            Community Wealth Building            Community Safety &amp; Participation            Family Friendly Barnet            Health &amp; Wellbeing            Environment &amp; Climate Change            Homes &amp; Regeneration            Equalities, Voluntary and Community Sector</p> <p><b><u>Leader of:</u></b></p> <p>Major Opposition Group</p>
2	8,713	<p><b><u>Chairs of:</u></b></p> <p>Overview &amp; Scrutiny Committee            Strategic Planning Committee            Planning Committee A            Planning Committee B            East Area Committee            North Area Committee            West Area Committee            Governance, Audit, Risk Management &amp; Standards Committee</p>
1	5,808	<p><b><u>Chairs of:</u></b></p> <p>Adults &amp; Health Overview &amp; Scrutiny Sub-Committee            Children &amp; Education Overview &amp; Scrutiny Sub-Committee            Pension Fund Committee            Licensing &amp; General Purposes Committee</p>

## Schedule 2

### Approved Duties

The following are approved duties for the payment of travel and subsistence allowances.

***(For Councillors the meeting must take place outside the borough of Barnet):***

1.
  - a) The attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
  - b) The attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that -
    - (ii) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or
    - (iii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited.
  - c) The attendance at a meeting of any association of authorities of which the authority is a member;
  - d) The attendance at a meeting of the executive or a meeting of any of its committees;
  - e) The performance of any duty in pursuance of a standing order requiring a member or members to be present while tender documents are opened;
  - f) The performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
  - g) The performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval of non-maintained special schools; and
  - h) Attendance at training courses arranged by the Council.
  - i) The carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees.

(The following bodies or their committees or sub-committees are specifically included in the above definition:

- Welsh Harp Joint Consultative Committee
- Hampstead Heath Management Committee
- London government statutory bodies, joint committees, forums, consortiums, employers' associations, etc
- Standing Advisory Council for Religious Education (SACRE)
- Local Government Association
- London Councils
- Joint Negotiating Councils for Council employees

## London Borough of Barnet - Constitution

2. Subject to the Base Budget not being exceeded, duties undertaken by Members, provided that they are undertaken outside the borough of Barnet and that the Chief Executive is satisfied that the duties are for the purposes of, or connected with, the discharge of the functions of the Council.
3. Attendance as the council's duly authorised representative at meetings of the following bodies.
  - a) School admission, exclusion and reinstatement appeals panels
  - b) Statutory complaints boards or panels relating to the council's education or social services functions
4. Conferences and meetings convened by a person or body whose objects are neither wholly nor partly political, and otherwise than in the course of a trade or business, for the purpose of discussing matters which in the council's opinion will relate to the interests of Barnet or its inhabitants or of part of Barnet or the inhabitants of part of it are approved for the purposes of payment of travel and subsistence allowance. They are those conferences and meetings convened by outside bodies being conferences where it is considered that there is a direct connection with a function of this council.



## Schedule 3

### Travel and Subsistence Allowances

#### Travel

1. Members do not receive a travel allowance for the cost of travel within the borough.
2. Other travel allowance shall be paid at the same rates as those applying at the time to council staff for motorcar, motorcycle and bicycle use. For public transport actual expenditure shall be reimbursed.

#### Subsistence

3. For a councillor attending an approved duty that takes place inside the borough of Barnet the rate of subsistence and travel allowance shall be nil.

Other subsistence allowance for meals taken on duty shall be paid at the same rates as those applying at the time to council staff.

For overnight costs reasonable approved expenses shall be paid.

#### Other Reimbursements allowed:

1. Not more than the amount of any expenditure incurred on tolls, ferries or parking fees.
2. Where day subsistence is payable, the reasonable cost of meals taken on trains, subject to a reduction of subsistence allowance of four hours for each meal taken, and a maximum of one main meal during an absence of more than four hours, two for more than eight hours' absence and three for more than twelve hours' absence.
3. The actual cost of overnight garaging of a car or other vehicle.

#### Payment

4. Evidence of expenditure incurred shall be required when claims are made and any unreasonable claim shall be referred to the Chief Executive.

## Part 4J

### Protocol for Recording Decisions made by Officers

#### 1. Introduction

- 1.1 The Council is required by law to record certain decisions made by officers. In addition officers are required to record when they exercise their delegated powers on all occasions in accordance with the requirements below. This protocol sets out which decisions should be recorded and requirements regarding publication. Report templates can be requested from the Governance Service.
- 1.2 The Governance Service can advise on the recording of decisions and/or what sort of decisions should be recorded. The requirement to record decisions comes from the Openness of Local Government bodies Regulations 2014.

#### 2. Decisions which must be recorded

##### 2.1 Decisions made under a specific express delegation from Cabinet, a committee, sub-committee or Council should be recorded in a Delegated Powers Report (DPR).

- 2.1.1 These decisions are ones where a particular decision has been delegated to an officer by Council, a committee, sub-committee or Cabinet.

##### 2.2 Decisions made under the Chief Officer's scheme of delegation

- 2.2.1 The Chief Officer's scheme of delegation will indicate whether a DPR or Officer Decision (OD) is required.

##### 2.3 Recording required by legislation

- 2.3.1 The legislation requires that permissions or licences and decisions that affect the rights of individuals should be recorded or awarding a contract or incurring expenditure which, in either case, materially affects that relevant local government body's financial position. The method of recording can be found in the Chief Officer's scheme of delegation. a-g below are examples of such decisions.

- a) Highways - Permits to undertake works on the highway, Temporary Traffic Orders, Permission for temporary suspension of Controlled Parking Spaces, Street works licences
- b) Building Regulations approvals
- c) Licences granted in relation to, Alcohol and entertainment, Gambling, Houses in Multiple Occupation, Special Treatment Licensing, Skip, Scaffolding and Cranes
- d) Deprivation of liberty under Schedule A1 of the Mental Capacity Act 2005
- e) 'Best interests' decisions made under section 4 of the Mental Capacity Act 2005 which significantly affect the welfare of the individual about whom the decision is made.
- f) Decisions made under the Mental Health Act 1983 in relation to detention in hospital for assessment and/or treatment, guardianship and community treatment orders
- g) Awarding a contract or incurring expenditure which, in either case, materially affects that relevant local government body's financial position and the Chief Officer will maintain a list of all decisions over £50,000.

### **3. Delegated Authority to Chief Executive and Chief Officers (DPR or OD)**

3.1 Chief Officers have the following delegated powers in respect of all matters which are not key decisions and not reserved for decision by the Council, Cabinet or by a Committee of the Council

- a) to make decisions and approve expenditure relating to their functions and the functions of their Department, where necessary. They should also comply with (b) and (c) below. The sum expended must be within the approved budget for the Department and/or relevant portfolio, and the amount in relation to any single matter must not exceed £213,478.
- b) to determine employment matters relating to staff including all changes to staffing structures. This power will not include changes to terms and conditions of employment or additional payments to any individual member of staff above £100K.
- c) to approve tender strategies and award contracts in accordance with the Council's Contract Procedure Rules within Part 2 of the Constitution.

3.2 Where appropriate the Head of Paid Service may exercise any function delegated to any other officer, e.g., in case of absence.

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

### **4. How to record decisions**

4.1 The Regulations require that the decision-making officer must produce a written record of the decision as soon as reasonably practicable after making the decision and should contain the following information:

- a) The date the decision was taken;
- b) A record of the decision taken along with reasons for the decision;
- c) Details of alternative options, if any, considered and rejected; and
- d) A record of any conflict of interest and dispensation granted for the member consulted.

### **5. Record-keeping**

5.1 Each record must be kept for 6 years. Any background papers must be kept for 4 years. These are statutory requirements.

5.2 Background papers are documents which:

- a) relate to the subject matter of the decision, or part of the decision;
- b) disclose relevant facts or matters on which the decision or an important part of the decision is based; and
- c) Were relied on to a material extent in making the decision.

5.3 DPR's must be published on the Council's website once the decision is taken.

5.4 A list of OD's is published on the Council's website every 6 months and citizens can request access to details of the decisions to the Governance Service.

5.5 In relation to the above, the following exceptions apply:

## **London Borough of Barnet - Constitution**

- a) Confidential information (provided by a government department on terms which forbid the disclosure of the information to the public or where disclosure is prohibited by an enactment or court order);
- b) Exempt information (as defined under Schedule 12A of the Local Government Act 1972); and/or
- c) In the case of executive decisions, the advice of a political assistant or a council officer.

## Part 4K - Members' Rights to Access Information

### Guidance and Protocol

#### 1. Introduction

- 1.1. Members have a right to see the majority of information which the Council holds so they can carry out their duties as Councillors. This can range from information about services to information about their constituents generally. The general rule is that information should be supplied if requested. However, there is certain information, particularly that held about individuals, where access may be restricted.
- 1.2. This document sets out general guidance on the circumstances in which members may gain access to information owned by the Council. A Members' Access to Information Policy and Toolkit is provided for members and officers to follow in relation to requests for confidential information. If further advice regarding a particular situation is required this can be obtained from the Monitoring Officer.
- 1.3. All committee reports are available to Members on the intranet and council website.

#### 2. Rights to access material

- 2.1. Members have a right to see documents, or parts of documents, where this is reasonably necessary to enable them to perform their duties as a Councillor or their role within the Council. This is commonly referred to as the 'need to know' principle. This covers cases where a councillor seeks to see information which relates to a committee of which they are a member.
- 2.2. This does not amount to an automatic right to see documents. The basis of this rule is that the member needs the information to carry out their duties. If the member was seeking to see documents for improper purposes, this would not be covered.
- 2.3. In addition to the general right, any member has a statutory right to see documents which contain information relating to:
  - a. business transacted at meetings of the Executive (including panels and forums), the Council and its Committees,
  - b. any decision taken by a portfolio holder in accordance with the Council's constitution and
  - c. any key decision made by the Officer.
- 2.4. Some categories of information are exempt from this provision, including that related to individuals. The list of exemptions is set out at Appendix 1. The practice in the Council is that members can generally see such information. However, there will be some circumstances where this is not the case, for example, where it affects the member's personal affairs. All information disclosed is treated as confidential for the purpose of the members' Code of Conduct.
- 2.5. If the Council is minded not to disclose exempt information, it will consider whether, in all the circumstances of the case, the public interest in disclosing the information outweighs the public interest in maintaining the exemption. If so, the information will be disclosed.

### **3. Overview and Scrutiny Committee**

- 3.1. In addition to the above rights, members of the Overview and Scrutiny Committee can obtain exempt information as set out in Appendix 1 or confidential information but only if it is relevant to an action or decision that the Committee is reviewing or scrutinising; or which is relevant to any review contained in any work programme of the committee. These members will also be entitled to copies of any document which is in the possession or control of the Executive, a Portfolio Holder, and which contains material relating to:
- a. any business transacted at a meeting of the Executive; or
  - b. any decision taken by an individual member of the Executive
- 3.2. Confidential information is defined as:
- a. Information provided to the local authority by a government department which has forbidden the disclosure of the information to the public; or
  - b. Information which cannot be disclosed to the public by a law or court order

### **4. Freedom of Information Act 2000 (FOIA)**

- 4.1. Members have the same rights as any other member of the public to request information under the FOIA. Any such request should be dealt with under the Council's procedure for FOI requests.
- 4.2. It should be noted that a political group is not part of the Council and therefore the Freedom of Information Act does not apply to it.

### **5. Data Protection Act**

- 5.1. The provisions of the Data Protection Act will apply to any personal information relating to individuals. The position differs according to the capacity in which the member is acting.

### **6. Member acting on behalf of local residents**

- 6.1. A local authority does not generally have to get the consent of an individual to disclose their personal information to an elected member as long as:
- a. The elected member represents the ward in which the individual lives;
  - b. The elected member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
  - c. The information is necessary to respond to the individual's complaint
- 6.2. In these circumstances, a member will be required to sign a form confirming this. A copy of the form is attached at Appendix 2.

### **7. Member acting as a member of the council**

- 7.1. Personal information can be disclosed on a 'need to know' basis.

### **8. Sensitive information**

- 8.1. Certain information is classified as sensitive under the Data Protection Act including information about racial or ethnic origins, political opinions and religious beliefs. Normally, consent from the individual or another condition specified under the Act is required. However, disclosure of such information to a member is allowed where they have been asked by the individual to take action (and has written consent from the

individual to obtain the information) on their behalf and the information is necessary in order for them to assist.

**9. Legal proceedings including care proceedings**

- 9.1. For certain legal proceedings, the consent of the Court is required to disclose information related to those proceedings. Documents regarding legal proceedings or prospective proceedings, will only be shared when a Member is able to identify a 'need to know' and not in circumstances where the Member is supporting the other party.
- 9.2. The Family Proceedings Court Rules lay down strict rules in respect of information relating to family proceedings. Information can only be disclosed with leave of the court. This is not restricted to documents filed with the court but covers any information relating to these proceedings. Members cannot see any such information in any circumstances, even where he or she is representing a constituent.

**10. Code of Conduct**

- 10.1. Members should bear in mind the provisions of the Code of Conduct where they hold Council information. This restricts the circumstances in which they can disclose confidential and exempt information.

**11. Protocol for Requesting Information**

- 11.1. If a member requests information and the officer concerned has no doubts that it can be disclosed, the information should be provided. However, where the officer has doubts that the information should be disclosed, the steps below should be followed.
- 11.2. Members should be asked to make a written request to the appropriate Director for the information to be provided. The request must state the purposes for which the information is required, having regard to the above guidance.
- 11.3. Where personal information is requested, the Member should complete the form attached at Appendix 2.
- 11.4. The Director should consider whether the information should be provided in accordance with the guidance above.
- 11.5. The Director should reply to the member within 5 working days and should either:
  - a. Provide the information,
  - b. Refuse to grant the request, stating reasons in writing, or
  - c. Give a timescale for providing the information which should be as soon as possible but not longer than 20 working days after the date of the request.
- 11.6. Where the request is not granted and the member is not satisfied with the reasons provided, the member may seek advice from the Monitoring Officer on whether the refusal is justified. If the Monitoring Officer decides that the information should be provided, then the Director who has refused the information must provide it to the member within a further 5 working days of that decision.
- 11.7. Where the Monitoring Officer decides that the information should not be provided, the request may be referred to the Governance, Audit, Risk Management and Standards Committee for resolution. Such meeting must have at least one Independent Person in attendance and their views must be taken into consideration.

## **London Borough of Barnet - Constitution**

- 11.8. Where the request is granted, the member may be allowed to inspect the relevant information, or to take away copies, depending on the information. Where copies are taken off site, the Director may specify steps which the member must take to keep the information secure, for example, keeping documents in a lockable cabinet. If given electronically, it should be password protected and watermarked.
- 11.9. The member must not use information for any other reason than that specified in the request and, where it is confidential or exempt, must keep it confidential in accordance with the code of conduct.



## Appendix 1

### Exempt information

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes:
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment.
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The above categories of information are exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## Appendix 2

### Request for information relating to an individual

This form is to be completed by a Councillor requesting information regarding an individual.

<p><b>Name of person about whom information is requested</b> <i>(please print)</i></p>	
<p><b>Type of Information requested</b> <i>(please be as specific as possible)</i></p>	
<p><b>I confirm that:</b></p> <ul style="list-style-type: none"> <li>a) The person named above has asked me to represent him/her;</li> <li>b) I represent the ward in which the person named above lives; and</li> <li>c) The information requested is necessary to respond to the individual's complaint</li> </ul>	
<p><b>Signed:</b></p>	
<p><b>Print name:</b></p>	
<p><b>Date:</b></p>	

31 March 2011

## CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

1. I am directed by the Secretary of State for Communities and Local Government to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which has been issued under section 4 of the Local Government Act 1986. It comes into force on 31 March 2011. On the same date the codes of practice issued on 15 August 1988 (Department of the Environment circular 20/88) and 2 April 2001 (Department of the Environment, Transport and the Regions circular 06/2001) are withdrawn in relation to local authorities in England.
2. The code has been prepared following consultation with such associations of local authorities as appeared to the Secretary of State to be concerned and such local authorities with whom consultation appeared to the Secretary of State to be desirable. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.

Signed

Paul Rowsell

*A senior civil servant in the Department for Communities and Local Government*

The Chief Executive –  
County Councils in England  
District Councils in England  
London Borough Councils  
The Council of the Isles of Scilly  
Parish Clerks of Parish Councils in  
England  
The Town Clerk, City of London

The Chief Officer of the –  
Metropolitan Police Authority  
Police authorities established under section 3 of the  
Police Act 1996  
The London Fire and Emergency Planning  
Authority  
The Broads Authority  
National Parks Authorities  
Joint authorities under Pt 4 of the Local  
Government Act 1985  
The Manchester Combined Authority

# THE CODE OF RECOMMENDED PRACTICE ON LOCAL AUTHORITY PUBLICITY

## **Introduction**

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.
2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.
3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

## **Principles**

4. Publicity by local authorities should:-
  - be lawful
  - be cost effective
  - be objective
  - be even-handed
  - be appropriate
  - have regard to equality and diversity
  - be issued with care during periods of heightened sensitivity

## **Lawfulness**

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.
7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.
8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.
9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

### **Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.
11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.
12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.
13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.
14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

## **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.
16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.
17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.
18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

## **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.
20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.
21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.
23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.
24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as a directly elected mayor, or leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.
25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

#### **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.
27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.
28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newsheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newsheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.
29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.
30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newsheets or similar publications published by the local authority, should do this on the front page of the publication.

## **Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.
32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

## **Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.
35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.





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# London Borough of Barnet

## Code of Conduct

### 1. Introduction

- 1.1 Council employees are delivering a service to the public using taxpayers' money, and as such the council expects them to exhibit exemplary standards of behaviour and conduct. Employees are expected to adhere to the seven Principles of Public Life (the "Nolan Principles"):
- **Selflessness** – acting solely in the public interest
  - **Integrity** – avoiding conflicts of interest and undue influence
  - **Objectivity** – taking decisions impartially without discrimination or bias
  - **Accountability** – being open to scrutiny
  - **Openness** – being transparent about decisions and actions
  - **Honesty** – truthful at all times
  - **Leadership** – exhibit the right behaviours and challenge poor conduct
- 1.2 Where a member of staff believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, may be treated as a disciplinary issue.
- 1.3 In addition to the duties of their post, Council employees have an obligation to comply with statutory duties as set out in relevant legislation including (but not limited to), the Data Protection Act 2018 and the Equality Act 2010.
- 1.4 The National Joint Council for Local Government Services (the Green Book) and the Constitution Salaries Conditions of Service (Joint Negotiating Committee for Chief Officers of Local Authorities) states: "Employees will maintain conduct of the highest standards that public confidence in their integrity is sustained. Local codes of practice will be developed to cover the official conduct and the obligations of employees and employers."
- 1.5 This Code of Conduct applies to all employees under a contract with the council. Governing bodies of non-community schools and partner organisations in receipt of public funds should be encouraged to adopt this Code of Conduct.

### 2. Standards

- 2.1 Council staff are expected to give the highest possible standard of service to the public, and to provide appropriate advice to Councillors and fellow members of staff with impartiality. They will be expected to raise matters without fear of recrimination to their manager or Senior manager or if they do not wish to do that, to bring it to the attention of the Chief Executive or make a report via the whistle blowing policy. In the event that the matter relates to the Chief Executive it should be raised with the Council's Monitoring Officer.
- 2.2 Safeguarding responsibilities - All staff share responsibility for safeguarding and promoting the welfare of children, young people and vulnerable adults. Staff are expected to report any incidents or concerns that cause you to believe that a child, young

person or vulnerable adult is, or is likely to be, at risk of harm. This includes responsibility to report if you suspect that a child or adult at risk may be under the influence of radicalisation, extremism, forced marriage or modern slavery.

### **3. Council Information**

- 3.1 The Council's policies on information management and security can be found on the staff intranet. These policies outline responsibilities for the management and security of Barnet Council information. It is a condition of employment at Barnet Council that staff work at all times in accordance with these policies. The policies may be amended and added to from time to time and the intranet site will show the most recent policies which staff must observe. Line managers are responsible for ensuring that staff are supported in complying with council information management (IM) policies and they should identify to their line manager any concerns that prevent compliance with the policies. The council will consider very seriously any alleged breaches of these policies which may be dealt with under the Council's Disciplinary Procedure. Employees are required to complete training periodically on this subject.
- 3.2 It is generally accepted that open and transparent government is best. The law requires that certain types of information must be available to elected members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Staff must be aware of the authority's policies and of their duties in relation to the handling of both personally and commercially sensitive information. If in doubt guidance should be sought from management before information is disclosed.
- 3.3 The council has a process for dealing with information requested under the Freedom of Information Act. All requests made under the FOI legislation must be passed to the FOI team where they will be logged and tracked. Each directorate has an FOI Link Officer responsible for co-ordinating responses and ensuring that the directorate is compliant.
- 3.4 Staff should not use any information obtained in the course of their employment that is not in the public domain for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 3.5 Information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

### **4. Political neutrality**

- 4.1 Staff must conduct their council duties in a politically neutral manner without regard to their personal political persuasions. This includes such matters as email sign offs promoting political organisations.
- 4.2 They must serve all Councillors and not just those of the controlling group and must ensure that the individual views of all Councillors are respected.
- 4.3 Subject to the authority's conventions, staff may also be required to advise political groups, in ways which do not compromise their political neutrality.
- 4.4 The council maintains a list of politically restricted posts. Holders of posts designated politically restricted will have this stated in their contract. They have limitations placed upon them in terms of active membership of political parties or holders of office within them. They are restricted to membership of a political party without playing any active

role within the party or undertaking any canvassing.

- 4.5 Staff, whether or not politically restricted, must follow every lawful expressed policy of the authority, regardless of their personal or political opinions

## **5. Relationships**

### **5.1 Councillors**

- 5.1.1 Staff are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between staff and councillors is essential to good local government. Close personal familiarity between staff and individual Councillors can damage the relationship and prove embarrassing to other staff and Councillors and should therefore be avoided.
- 5.1.2 No personal matters to do with an employee's job should be raised with Councillors directly, but should be referred through the accepted Council procedures. In the same way, allegations or claims about other employees should be referred to the appropriate manager and not raised directly with Councillors. Employees should not use Councillors to by-pass formal Council procedures in any way, for example, to influence the outcome of a disciplinary action.
- 5.1.3 The council has protocols and etiquette around working with Councillors and managers should ensure new recruits are aware of these.

### **5.2 The Local Community and Service Users**

- 5.2.1 Staff should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

### **5.3 Contractors**

- 5.3.1 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against tenders and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

### **5.4 Soliciting or being solicited for employment**

- 5.4.1 Where Council staff engage in discussions about future employment with any organisation, contractor or partner with whom the council either has a contractual relationship or is in the negotiation stages of a possible contractual arrangement then this must be declared prior to being developed further to the Head of Service or Chief Officer as appropriate, or Chief Executive where the person is themselves a Head of Service or Chief Officer. The Council reserves the right to temporarily redeploy staff to a suitable alternative post where such discussions are taking place.
- 5.4.2 Managers will make a note of relationships and personal interests, declared to them by staff, any risks identified and the mitigating action taken and send this note to the Human Resources unit who will keep this information on the employee's personal file.

### **5.5 Recruitment, Employment and promotion of Relatives**

- 5.5.1 Staff involved in all types of recruitment, whether to permanent, fixed term or casual roles, should ensure that these selection decisions are made on merit. It would be

unlawful for an employee to make an appointment or promotion which was based on anything other than the ability of the candidate to undertake the duties of the post.

5.5.2 The Council recognizes that employees are entitled to privacy in their personal affairs and have the right to enjoy a private life. However, all employees are expected to avoid placing themselves in situations in which their personal relationships may create actual or perceived conflicts of interest. Such conflicts could occur in the following situations. However, these are illustrative and not exhaustive:

- Applying for a position at the council without declaring a relationship with a councillor or existing officer
- Being involved in recruitment or promotion decisions where candidates are relatives or close friends
- Being involved in tendering processes where potential tenderers are closely related or where a financial interest exists
- Commencing a relationship with a colleague where that relationship could create conflicts of interest (e.g. between a line manager and employee) - in such cases employees are required to notify their senior manager

5.5.3 In all cases, employees should seek advice where a potential conflict of interest may occur. Such advice can be obtained confidentially from Human Resources or the Monitoring Officer

5.5.4 The same standards should be applied to the selection and appointment to interim, agency, contractor or consultancy opportunities.

## **6. Additional Employment**

6.1 Staff should be clear about their contractual obligations and should not take outside employment or engage in any business which conflicts with the authority's interests.

6.2 Staff must not use the Council's contacts and suppliers in order to set up a venture on their own account, in competition with or to the detriment of the council.

6.3 Current policy in Barnet (but subject to each individual case being considered on its merits and in accordance with the Council's procedures), states that in order to avoid any conflict of interests, all staff involved in any proposed Management Buy Out be given unpaid leave of absence pending a conclusion or, if directly involved in negotiating the buy out, be suitably separated from any conflicts of interest that may arise.

6.4 Staff must not take up any other employment or engage in any business without written approval.

6.5 Approval to undertake additional employment or engage in any business will depend on the circumstances of the Officer's particular situation. Any additional employment must not in the view of the Authority be likely to conflict with or be detrimental to the Authority's interests or in any way weaken public confidence in the conduct of the Authority's business. Situations where staff fail to seek permission or disclose details of their additional employment will be dealt with under the Council's Disciplinary Rules and Procedure and could result in the employee's dismissal for gross misconduct.

6.6 Assistant Directors and above are empowered to decide whether officers should be permitted to take up part-time employment or engage in any business in addition to their full or part-time appointment with the council. The decision in this respect should be

communicated in writing to the employee concerned. A copy must be placed in their personal file. Requests from Assistant Director (AD) and above should be referred to the Chief Executive for a decision.

6.7 With regard to holders of job share or part-time posts, each case will be looked at on an individual basis by the AD or Chief executive as appropriate.

6.8 Employees may, and are encouraged to, take up unpaid roles, such as being trustees or governors. However, they should still declare the role as an interest, and must seek approval from their chief officer if the time commitment required for the role is likely to impact on their employment (see below)

6.9 Where in doubt, staff should seek advice from their AD, Director or Chief Executive.

## **7. Intellectual property**

7.1 Intellectual property is a generic term that includes inventions, applications, programmes, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

## **8. Inventions and Patents**

8.1 Under the Patents Act 1977 inventions are the property of the employer if they have been made either

8.2 in the course of the employee's normal duties or in the course of duties specifically assigned to the employee falling outside their normal duties, and in both cases where invention might reasonably be expected;

8.3 in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

## **9. Conflict of interest**

9.1 Staff must declare any non-financial interests that they consider could bring about conflict with the authority's interests e.g. involvement with an organisation or pressure group which may seek to influence their authority's policies or acting as a School governor within schools maintained by the authority.

9.2 Where a worker believes there is or may be a conflict of interest affecting their ability to work in this way, the expectation is that they will declare this potential conflict in a timely manner, and before it comes to light by some other means. Failure to make a declaration where there is subsequently discovered to be grounds for doing so, will be treated as a disciplinary issue.

9.3 Further guidance notes will be issued with the declaration form that will be used to declare interests, to distinguish the types of membership of groups that require to be declared. It is not intended for staff to declare membership of legitimate political parties or Trade Unions.

9.4 Any interests, financial or otherwise which could conflict with the authority's interests must be declared e.g., involvement with an organisation applying for or receiving grant aid from the authority, or involvement with an organisation that is seeking to contract with the council or is already a contractor or client. It is accepted that some staff may be members of organisations and groups and have no active involvement in the group.

However, there is an expectation that where an employee is involved in the running of the group or organisation, has a financial interest or otherwise, or is involved as a Committee member, or in the decision-making process, that this would be declared. Likewise, those who are asked to undertake work in response to a request from a group or organisation of which they are a member would be wise to declare their membership.

- 9.5 Staff must declare membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules, membership or conduct.
- 9.6 The completed declaration of interest form will be reviewed by an appropriate AD to consider any action that may be necessary before being placed on the employee's personal file.
- 9.7 The declaration of interest is not a historical document to reflect the situation at time of entry to the council's employment, rather an evolving document that must be kept up to date. It is the responsibility of the employee to ensure that as their circumstances change during the time of their employment that they keep their declaration up-to-date. Should an employee need to amend or review a declaration they must contact HR and complete a new declaration and send this to the appropriate AD for review before it is placed on personal files.
- 9.8 Declaration forms are securely stored and would not be open for inspection to staff, other than by their Senior Managers (at AD level) or HR. These managers/HR may need to check declaration forms should either membership of an organisation or pressure group emerge or, should there be suspicion that a relationship has emerged which was relevant to the staff member's duties and is contrary to the Code of Conduct. FOI requests relating to such information, would be redacted to ensure identifying information is excluded.
- 9.9 Any member of staff who is in any doubt as to whether or not specific outside interest exists and should be declared should contact their AD for guidance.
- 9.10 All staff involved in procurement activity should ensure that they are familiar with procurement policies and procedures, especially with regard to conflicts of interests and make declarations of interests as appropriate.

## **10. Separation of Roles During Tendering**

- 10.1 Staff involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior staff who have both a client and contractor responsibility must be aware of the need to demonstrate accountability and openness.
- 10.2 Staff in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers other contractors and sub-contractors.
- 10.3 Staff who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised third party or organisation.
- 10.4 Staff should ensure that no special favour is shown to current or recent employees and workers or their partners, close relatives or associates in awarding contracts to businesses.

## **11. Workers and Residents**

- 11.1 In circumstances, where an London Borough of Barnet (LBB) worker who is also a resident



of LBB wishes to make an opinion about the policies being followed by the Council then such expressions of opinion must make clear that the person concerned is expressing an opinion as a resident of LBB and not as a Council worker.

- 11.2 The worker must ensure that they do not divulge any information that is not already in the public domain.
- 11.3 Where opinions are expressed on TV, film, website, social networking site or in photographs, the worker must not wear any badges or clothing which would readily identify the individual as a worker at the Council.
- 11.4 Should a worker express an opinion without making clear that he or she is making that opinion as a resident of LBB or he or she is wearing badges or clothing that readily identifies the individual as a worker at the Council, he or she may be subject to a disciplinary process.
- 11.5 Notwithstanding the above, employees should not, in any circumstances, act in a way that would bring the council into disrepute, and to do so would be a disciplinary matter.
- 11.6 Council staff who are Trade Union officials must not make statements about council business without making it clear that this is in their official union capacity in accordance with agreed working protocols.

## **12. Equality Diversity and Inclusion (EDI)**

- 12.1 The council is committed to promoting equality, diversity and inclusion, and expects all of its employees to act in a way that supports this. As well as complying with all aspects of the Equality Act 2010, employees are also expected to support the Council's 6 Equality, Diversity and Inclusion (EDI) workforce goals:
  - 12.1.1 We have an inclusive culture, based on an empathic understanding of people's life situations and lived experiences
  - 12.1.2 Our workforce is representative of the communities we serve, at all levels
  - 12.1.3 Our working environment is safe and supportive, free from discrimination, bullying, harassment and micro-aggressions, where all staff can bring their whole selves to work
  - 12.1.4 All staff are given the opportunity to grow and develop
  - 12.1.5 Barriers to equality are better understood and eliminated
- 12.2 Equalities, diversity and inclusion are promoted at all levels of the council, internally and externally
- 12.3 All staff should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law.
- 12.4 All members of the local community, customers and other employees and workers have a right to be treated with fairness and equity.

## **13. Use of Financial Resources**

- 13.1 Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.
- 13.2 In addition, staff must consider financial matters solely with regard to the public interest and in accordance with the council's financial regulations.

## **14. Fraud, Bribery and Corruption**

- 14.1 These are serious criminal offences.
- 14.2 The council is under a duty to protect public funds it administers. To this end any information which the council obtains as a consequence of your employment may be used for the detection of fraud. The information may, where necessary, be used by the council and provided to other bodies administering public funds for the detection of fraud.
- 14.3 It is also a serious criminal offence in an official capacity, to offer or receive a bribe, or corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour, to any person, group or organisation. If it is proved that some kind of reward was given to or received by the employee, then the onus is on the staff member to disprove corruption.
- 14.4 Suspicions of Fraud, Bribery or Corruption must be referred to the Councils Corporate Anti-Fraud Team (CAFT) for investigation. Such matters can also be raised under the council's whistle blowing Policy by workers.

## **15. Gifts, Hospitality and Sponsorship**

- 15.1 In the course of their work for or on behalf of the Council staff may be offered gifts, hospitality or sponsorship by contractors, consultants, clients or other members of the public. In some instances, accepting such gifts could place staff in a serious predicament, open to allegations of bribery and corruption, disciplinary proceedings and or criminal investigation.
- 15.2 These guidelines are designed to protect workers from such allegations, proceedings or investigations. It is essential that workers are open, and not secretive in their relationships with outside agencies and at all times act in a manner that will protect the integrity and reputation of the Council. Under no circumstances should gifts, hospitality or sponsorship be accepted to give personal, commercial, regulatory or contractual advantage (acceptance of bribes). All workers are required to have an understanding and awareness of the Counter Fraud Framework – Bribery Policy Statement and Procedure.
- 15.3 Offering or accepting bribes is a matter to be investigated by the Corporate Anti Fraud Team (CAFT) and could result in prosecution.
- 15.4 Staff should not routinely accept gifts and hospitality.
- 15.5 Any gift, hospitality or sponsorship that is offered in connection with work undertaken for the council (whether accepted or not) must be recorded in writing, immediately on receipt, or offer, on the Hospitality, Gifts and Sponsorship Declaration Form. For the avoidance of doubt, it is required to fully complete the declaration form on each and every occasion that an offer of a gift, hospitality or sponsorship is made, unless there is an exemption for gifts, etc. below a specified value threshold.
- 15.6 After completion, the declaration form must then be passed immediately to the line manager. Once the line manager has completed their section, they should then immediately pass the declaration form to the council's Monitoring Officer. The Monitoring Officer will consider if further action is appropriate. The Monitoring Officer will then pass the declaration form to a Governance Officer for inclusion in the central register recording receipt/offers of gifts, hospitality and sponsorship to Council officers. In the interests of transparency, the council may publish the "gifts hospitality and sponsorship" register, but will delete personal data, where it is appropriate to do so.

- 15.7 **Minor gifts/hospitality under £25**, e.g. calendars, diaries, stationery items, need not be recorded. The same applies to the receipt of minor hospitality e.g. tea and biscuits. Where unsolicited gifts, with a value of less than £25, such as a bottle of wine, food, confectionery, etc are offered, these can be accepted, and if not capable of sharing with colleagues, residents/users (e.g. of a social services' establishment), they should be donated to the Mayor's charity. Staff should declare multiple gifts received (in a period of 12 months) from the same donator/company whether or not they exceed £25.
- 15.8 **Gifts of higher value**, e.g. cases of spirits, clothes, jewellery, holiday bookings, holiday discounts and electrical equipment, must not be accepted and, if received, should be returned to the sender, but must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such gifts must be separately reported by you)
- 15.9 **Cash, Cheques, Money Orders** or any monetary form offered to or received as a gift or otherwise must not be accepted, under any circumstance, and any such offers must still be recorded on the declaration form as having been received and returned unused or as directed by the Head of CAFT (to whom such offer or receipt must be separately reported by you)
- 15.10 **Discounts** - It is not permitted, on a personal basis, take advantage of discounts which have been offered or negotiated by the Council with its suppliers for the purchase of goods, materials or services, unless the discount has been negotiated specifically as a benefit available to all staff or to a specific group of staff (of which the individual claiming the discount is a member).
- 15.11 **Hospitality** - The Council recognises that from time to time there is a need for certain officers to attend business functions where they may receive hospitality in the form of light refreshments, drinks and/or meals. Such hospitality may be accepted when provided in the course of normal business - e.g. lunch at a contractor's expense during a business meeting or function, provided that it is recorded in the gifts, hospitality and sponsorship register (subject to the exemption for minor hospitality previously referred to). If the offer of alcohol is accepted, vehicles must not be driven until an appropriate time has elapsed for the alcohol to have left the system. Individuals should consider whether the acceptance of hospitality could affect or may reasonably be perceived as likely to affect the outcome of a business transaction involving the Council or may otherwise be reasonably perceived as not appropriate and/or not bona fide expenditure.
- 15.12 **Prestige Events** - Invitations to prestige events, such as Wimbledon and Royal Ascot and other events such as football matches, theatre, opera, or weekend breaks must not be accepted, and offers must be recorded on the declaration form. Consideration may be given to attendance at certain events if that attendance is in connection with the business purposes or otherwise in the interests of the Council, but authorisation must be obtained from your line manager and approved by the Monitoring Officer before any attendance and this must be recorded on the declaration form.
- 15.13 **Sponsorship** - Attendance at sponsored conferences and other business related events would be permissible provided that such attendance is either necessary for the business purposes or otherwise in the interests of the Council or it is normal practice for officers in local authorities or other public bodies to attend. Attendance must be recorded on the declaration form.
- 15.14 **Council workers providing personal care**, such as Care Workers, Home Helps and

Wardens of sheltered housing accommodation can sometimes be offered jewellery, money or other gifts, or bequests of substantial value by clients. There are special considerations when dealing with elderly, confused or otherwise vulnerable clients, as accepting such gifts may place staff in a vulnerable position. Any such offers from clients, or their relatives, friends or other members of the public, must be reported immediately to the line manager. Where-ever possible gifts from clients should be refused, and they may only be accepted if to refuse would give offence, they are under the value of £25, a declaration form has been completed (even though below the normal value threshold) and with the prior consent of the employee's line manager and the Monitoring Officer.

15.15 **No gifts or hospitality are to be accepted from contractors who are considering or submitting a tender during a tendering period.**

15.16 Records may be subject to inspection.

15.17 Failure to adhere to this code of practice will be regarded as gross misconduct and could lead to dismissal.

## **16. Sponsorship – Giving and Receiving**

16.1 Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

16.2 Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, staff should ensure that impartial advice is given and that there is no conflict of interest involved.

## **17. Use of Internet, Intranet and e-mail facilities**

17.1 The council's electronic assets, including PC/laptop/phone, e-mail, Internet web access and Intranet facilities are provided to assist council business and are not intended for personal use. (See the Information Governance (IG) policies and procedures for detailed guidance).

17.2 Accessing, storing or transmitting offensive material via e-mail, the Internet or the Intranet is expressly prohibited. Offensive material includes, but is not limited to, pornographic, racist, terrorist and sexist material.

17.3 The usage of web and e-mail addresses will be logged and audited on a regular basis. Any apparent misuse of these facilities may lead to disciplinary action being considered.

17.4 Up-to-date information on the council's Acceptable Use Policy is available on the Internet and should be regularly reviewed by users of the council's Internet and Intranet facilities. The use of all social media by workers of the council, including the use of authorised and personal social media channels, must be in accordance with the specific terms and general spirit of the Code of Conduct that requires staff to exhibit exemplary standards of behaviour. In particular, the use of social media must comply with the terms of section 3 (Council Information), section 10 (Workers and Residents) and section 17 above (Use of Internet, Intranet and email facilities). For the avoidance of doubt, social media may not be used in any way that:

- 17.4.1 Breaches the security of Barnet Council information, as set out in the council's information management policies, including the transference of information to third parties and/or third party social media channels.
- 17.4.2 Makes unauthorised comments on council policy or business in any way that may be construed as being made by a representative or worker of the council.
- 17.4.3 Brings the council into disrepute
- 17.5 Circumvents or otherwise inhibits the council's whistleblowing policy and management thereof.
- 17.6 Failure to comply with any of the above will be fully investigated under appropriate policies and could result in disciplinary action.

## **18. Smoking, Alcohol and Substance misuse**

- 18.1 Smoking in or in the immediate vicinity of Barnet offices is strictly prohibited. Smoking in work vehicles or vehicles that will carry members of the public is also prohibited. E-Cigarettes are treated exactly the same as cigarettes or cigars. Please see Smoking at Work Policy for full details.
- 18.2 The consumption of alcohol, drugs or substances (except medically prescribed drugs) are strictly prohibited during working time. Staff at business related engagements outside of working time are representing the council as ambassadors and as such are expected to keep any alcohol intake within recommended daily guidelines. Problem drinking is an illness or could be related to a mental health problem and the individual concerned should be encouraged to seek appropriate support. Employees who drive for work or who carry out safety critical tasks must never drive or work while under the influence of alcohol drugs or substances. Please see Alcohol, Drugs and Substance Misuse Policy for full details.

## **19. Application of the Code of Conduct**

- 19.1 There will be specific mention of the Code of Conduct in the contract of employment for new starters and that they could be required to declare interests after the selection process but before taking up their posts.
- 19.2 Any apparent breaches of this Code of Conduct will be fully investigated by the appropriate manager and any proceedings would follow the normal disciplinary procedures of the Council and in serious cases could also result in prosecution.
- 19.3 If anyone has any concerns about improper conduct or malpractice or abuse within the Council or to any of its service users and wish confidentiality when reporting a concern, they are encouraged to use the whistleblowing policy which can be found on the intranet in the HR Staff Handbook section.

## **20. Criminal Offences**

- 20.1 It is a condition of employment that employees notify their manager immediately if they are charged, cautioned or convicted of a criminal offence, including offences against children. Personal information which you supplied to the Council will be stored on computer systems and will, therefore be subject to the provisions of the Data Protection Act 2018.

## Hospitality, Gifts and Sponsorship Declaration Form (Page 1 of 2)

*NB this will be an online process*

<b>Date hospitality, gift or sponsorship offered/received:</b>
<b>Name of person offered/receiving the hospitality, gift or sponsorship:</b>
<b>Work address:</b>
<b>Directorate:</b>
<b>Hospitality, gift or sponsorship received from:</b>
<b>Details of hospitality, gift or sponsorship offered/received:</b>
<b>Approximate value of hospitality, gift £ or sponsorship offered/received:</b>
<b>Declaration: <i>(please delete as appropriate)</i></b> <b>1 The hospitality, gift or sponsorship was offered but was declined.</b> <b>2 I declare that the gift/hospitality/sponsorship has been/will be accepted and is entirely consistent with the requirements of the Council's Code of Practice on Gifts, Hospitality and Sponsorship and that no business decisions have or will be influenced by the acceptance and that no advancements or personal gain have been or will be obtained.</b> <b>3 I confirm that I have read and understand the Code of Practice on Gifts, Hospitality and Sponsorship and the Bribery Policy Statement and Procedure</b> <i>– Counter Fraud Framework and have made all necessary declarations during the last year.</i>
<b>Print Name:</b>
<b>Signed and dated:</b>
<b>(If the declaration is made by e-mail, state by e-mail in the signature box above)</b>

## Hospitality, Gifts and Sponsorship Declaration Form (Page 2 of 2)

<p><b>Managers Statement:</b></p>	<p>I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff for whom I have line management responsibility. I consider the action taken by the member of staff to be reasonable and it has my approval/ I have taken the following action with regard to the matter:</p>
<p>Print Name:</p>	
<p>Signed and Dated:</p>	
<p><b>Monitoring Officer statement:</b></p>	<p>I confirm that I have been made aware of the stated hospitality, gift or sponsorship that has been offered to or received by the above named member of staff. I have taken account of the line manager's comments.</p> <p>I consider the action taken by the member of staff to be reasonable and it has my approval / I have taken the following action with regard to the matter:</p>
<p>Print Name:</p>	
<p>Signed and dated:</p>	
<p>To be completed by Governance Officer as confirmation of inclusion in register Print Name</p>	
<p>Signed and dated</p>	

## Declaration of Interest Form Definition

If a member of staff is a close relative, a friend, a personal acquaintance, a Councillor or have had any form of relationship either present or past, the relationship must be declared to the Assistant Director or Director.

- The relationship must be declared to the Director for them to review the information detailed on the form and make an informed decision on any action to be taken.
- **For example:** make a change to line management responsibilities, review interview panel members, change decision making responsibilities for employment by instructing the employee **not** to be involved in any recruitment and selection decision, pay including provision of overtime, grading, training, appraisal, disciplinary, grievance decisions.
- If you **fail to seek permission or disclose details** of any relationship it could be dealt with under the Disciplinary procedure and **could** result in dismissal

I declare that I have a “close relationship” with .....

### Decision and rational made by Director

Name of employee	Signed by employee
Declaration of conflict of interest has been declared, considered and instructed as above.	Signed:  Assistant Director/Director

Once complete scan and send to HR in Belfast Barnet HR & Payroll ([barnethrpayroll@capita-services.co.uk](mailto:barnethrpayroll@capita-services.co.uk))