



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Lauren Wallis  
[lauren.wallis@bromley.gov.uk](mailto:lauren.wallis@bromley.gov.uk)

DIRECT LINE: 0208 461 7594

FAX: 020 8290 0608

DATE: 19 July 2011

To: Members of the

## **GENERAL PURPOSES AND LICENSING COMMITTEE**

Councillor Tony Owen (Chairman)

Councillor Russell Mellor (Vice-Chairman)

Councillors Nicholas Bennett J.P., John Canvin, Roger Charsley, Roxy Fawthrop, John Getgood, Will Harmer, Gordon Norrie, Ian F. Payne, Charles Rideout, Diane Smith, Tim Stevens, Harry Stranger and Stephen Wells

A meeting of the General Purposes and Licensing Committee will be held at Bromley Civic Centre on **WEDNESDAY 27 JULY 2011 AT 7.30 PM**

MARK BOWEN  
Director of Resources

*Copies of the documents referred to below can be obtained from*  
[www.bromley.gov.uk/meetings](http://www.bromley.gov.uk/meetings)

### **A G E N D A**

**1 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

**2 DECLARATIONS OF INTEREST**

**3 CONFIRMATION OF MINUTES OF THE MEETINGS HELD ON 18TH AND 24TH MAY 2011 (EXCLUDING EXEMPT MINUTES) (Pages 5 - 14)**

**4 MATTERS OUTSTANDING FROM PREVIOUS MEETINGS**

The following items are listed as outstanding from previous meetings:

Minute 128 – Licensing Work Plan 2011 and Review of 2010 (from GPL Committee – 24<sup>th</sup> May 2011)

The Head of Food Safety, Occupational Safety and Licensing to contact Trading Standards regarding the alleged sale of alcohol to underage children in Biggin Hill. Any information acquired to be forwarded to Councillors Norrie, Owen and Stevens.

Minute 130 – Appointment of Council Representatives to Serve on Outside Bodies and Partnership Bodies (from GPL Committee – 24<sup>th</sup> May 2011)

In relation to the vacancy for Cray Valley Library and War Memorial Institute (to 8th June 2014), Councillor Roxy Fawthrop was emailed and was invited to fill the vacancy.

The Renewal and Recreation Policy Development and Scrutiny Committee at its meeting on 5<sup>th</sup> July 2011 considered the ending of the need to appoint Councillors to the Beckenham and Bromley Town Centre Steering Groups. An extract from the minutes of this meeting will be tabled.

**5 QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

To hear questions to the Committee received in writing by the Democratic Services Team by 5pm on Thursday, 21<sup>st</sup> July 2011 and to respond.

**6 UPDATE ON LICENSING ASPECTS OF POLICE REFORM AND SOCIAL RESPONSIBILITY BILL**

A verbal update will be given at the meeting.

**7 REVISED PROCEDURE FOR REVIEW HEARINGS (Pages 15 - 22)**

**8 REPRESENTATIONS ON HOME OFFICE APPEALS FOLLOWING DECISIONS TO REVOKE A LICENCE (Pages 23 - 28)**

**9 APPOINTMENTS OF COUNCIL REPRESENTATIVES TO OUTSIDE AND PARTNERSHIP BODIES 2011/12 (Pages 29 - 32)**

**10 REFERENCE FROM THE PENSIONS INVESTMENT SUB-COMMITTEE (Pages 33 - 42)**

**11 PENSIONS INVESTMENT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 10TH MAY 2011(EXCLUDING EXEMPT MINUTES) (Pages 43 - 48)**

**12 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 7TH JUNE 2011, EXCLUDING EXEMPT INFORMATION (Pages 49 - 54)**

**13 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**Items of Business**

**Schedule 12A Description**

**14 CONFIRMATION OF EXEMPT MINUTES OF THE MEETING HELD ON 24TH MAY 2011 (Pages 55 - 56)**

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

**15 PENSIONS INVESTMENT SUB-COMMITTEE: EXEMPT MINUTES - 10TH MAY 2011 (Pages 57 - 62)**

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

**16 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 7TH JUNE 2011 (Pages 63 - 70)**

Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

.....

# Agenda Item 3

## GENERAL PURPOSES AND LICENSING COMMITTEE

Minutes of the meeting held on 18<sup>th</sup> May 2011

### Present:

Councillor Tony Owen (Chairman)  
Councillor Russell Mellor (Vice-Chairman)  
Councillors Nicholas Bennett JP, John Canvin,  
Roger Charsley, Roxhannah Fawthrop, John Getgood,  
Will Harmer, Gordon Norrie, Ian Payne,  
Charles Rideout CVO QPM, Diane Smith, Tim Stevens JP,  
Harry Stranger and Stephen Wells

### 1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

### 2 PROPORTIONALITY

**RESOLVED** that seats on the Sub-Committees of the General Purposes and Licensing Committee be allocated to political groups as follows:

Sub Committee	Size of Sub-Committee	Allocation		
		Conservative	Lib/Dem	Labour
Audit	7	6	1	0
Pensions Investment	7	7	0	0
Local Joint Committee	9	9	0	0
Industrial Relations	7	7	0	0
Rights of Way	7	7	0	0

### 3 APPOINTMENT OF SUB-COMMITTEES

**RESOLVED** that the following Sub-Committees be appointed for the ensuing Municipal Year, with membership as indicated:-

#### (i) AUDIT SUB-COMMITTEE

	Councillors
1	ADAMS
2	BENNETT N
3	BENNETT R

4	HARMER W
5	FAWTHROP S
6	REDDIN
7	WELLS

**(ii) PENSIONS INVESTMENT SUB-COMMITTEE**

	Councillors
1	BOSSHARD
2	GRAINGER
3	JACKSON
4	LYNCH
5	MELLOR
6	REDDIN
7	SCOATES

**(iii) LOCAL JOINT COMMITTEE** (To include Leader or named deputy, Chairman of the Executive and Resources PDS Committee or named deputy and Chairman of the General Purposes and Licensing Committee or named deputy.)

	Councillors
1	BENNETT N
2	BOSSHARD
3	CARR
4	MELLOR
5	OWEN
6	PAYNE
7	SMITH C
8	SMITH D
9	TURNER

**(v) INDUSTRIAL RELATIONS SUB-COMMITTEE** (To include Leader, Deputy Leader, Chairman and Vice-Chairman of the General Purposes and Licensing Committee.)

	Councillors
1	BOSSHARD
2	CARR
3	MELLOR
4	OWEN
5	SMITH C
6	TICKNER
7	TURNER

**(vi) RIGHTS OF WAY SUB-COMMITTEE**

	Councillors
1	GRAINGER

2	HARMER E
3	NORRIE
4	SCOATES
5	STRANGER
6	TICKNER
7	WELLS

**4 APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN**

**RESOLVED** that the following Councillors be appointed as Chairmen and Vice Chairmen of the Sub-Committees of the General Purposes and Licensing Committee for the 2008/9 Municipal Year. (The Chairman and Vice Chairman of the other Sub-Committees and the Local Joint Committee will be appointed at their first meetings).

**(a) Audit Sub-Committee**

Councillor Neil Reddin (Chairman)  
Councillor Simon Fawthrop (Vice Chairman)

**(b) Pensions Investment Sub Committee**

Councillor Paul Lynch (Chairman)  
Councillor Richard Scoates (Vice Chairman)

**5. APPOINTMENT OF APPEALS SUB-COMMITTEE**

**RESOLVED** that:

- (1) all Members of the Council, except Executive Members, be eligible for appointment to the Appeals Panel; and**
- (2) three Members be drawn as required, to constitute an Appeals Panel.**

**6. APPOINTMENT OF LICENSING SUB-COMMITTEE**

**RESOLVED** that:

- (1) all Members of the General Purposes and Licensing Committee be eligible for appointment to the Licensing Appeals Sub-Committee; and**
- (2) three Members be drawn as required, to constitute a Licensing Sub-Committee.**

*Chairman*

This page is left intentionally blank

## **GENERAL PURPOSES AND LICENSING COMMITTEE**

Minutes of the meeting held at 7.30 pm on 24 May 2011

### **Present:**

Councillor Tony Owen (Chairman)  
Councillor Russell Mellor (Vice-Chairman)  
Councillors Nicholas Bennett J.P., John Canvin,  
Roger Charsley, Simon Fawthrop, John Getgood,  
Will Harmer, Gordon Norrie, Ian F. Payne,  
Charles Rideout, Diane Smith, Tim Stevens,  
Harry Stranger and Stephen Wells

### **123 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

The Chairman welcomed Councillor Mellor and Councillor Norrie as new members of the Committee.

An apology for absence was received from Councillor Roxy Fawthrop and Councillor Simon Fawthrop acted as alternate.

### **124 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **125 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 7TH APRIL 2011(EXCLUDING EXEMPT MINUTES)**

**RESOLVED** that the minutes of the meeting held on 7<sup>th</sup> April 2011 (excluding exempt information) be confirmed.

### **126 MATTERS OUTSTANDING FROM PREVIOUS MEETINGS**

Members were given an update on the subject of Unadopted Highways in Bickley Park. The Committee was reminded that the Director of Resources, then the Director of Legal, Democratic and Customer Services, had been authorised, subject to the evidence and after consultation with the Chairman and the Vice-Chairman of the General Purposes and Licensing Committee, the Environment Portfolio Holder and the Director of Environment Services, to seek a declaration from the Courts as to the status of certain roads within the area known as "Bickley Park". A pre-action protocol letter had been sent to the Bickley Park Ltd's solicitors together with copies of the Council's supporting evidence. This evidence, subject to the redaction of certain personal data, would also be made available on the Council's website.

Residents would respond if they wished and officers would then put together a composite of responses from residents including those represented by Bickley Park Ltd which Members requested would be submitted to the General Purposes and Licensing Committee. A Councillor advised that the meeting of the Committee that considered this information should be held before the meeting of the Executive that was to be asked to make a decision on this subject.

*Note: Please note that the Function Regulations and decisions based on s130 Highways Act (asserting and protecting public rights) cannot be considered by the Executive. Accordingly it is only General Purposes and Licensing Committee that can have a role in reviewing the authority it has already delegated to the Director of Resources to pursue the declaration before the court.*

## **127            QUESTIONS FROM MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

There were no questions from members of the public.

## **128            LICENSING WORK PLAN 2011 AND REVIEW OF 2010 Report ES11062**

Members received a report on the performance of the Licensing Team for the year 2010/11. The Committee's agreement was sought on targets for 2011/12.

The Portfolio Holder for Public Protection and Safety referred to the Best Bar None Scheme and advised that the Scheme might include Orpington this year depending on the cost. An administrative charge levied at premises who wished to take part in the competition had been considered as all of the resultant publicity benefitted the premises in question. He had also asked for a review of licensing fees. The Council had no control over alcohol licensing fees but did have some say over other types of fees. Comparative work with other councils would be carried out during the review.

A ward Councillor raised the question of a public order nuisance caused by a public house that was sited just outside the Crystal Palace boundary. The Head of Food Safety, Occupational Safety and Licensing agreed to look matter of public nuisance around the area of the Cambridge Public House. He also advised that a review of a licence could still be applied for even though the premises was outside the Borough boundary. The officer agreed to contact neighbouring boroughs for further possible information

A ward Councillor for Biggin Hill reported that in the last year the Sevenoaks Chronicle had carried out a "sting" operation in relation to selling alcohol to underage children. However, he reported that this offence still went on and named Roundways and Tesco as two alleged offenders. The Head of Food



Safety, Occupational Safety and Licensing advised that he would contact Trading Standards and he would forward any information he acquired to Councillors Norrie, Owen and Stevens.

**RESOLVED that:**

- (a) the achievement of the Work Plan for 2010/11 be noted; and**
- (b) the Work Plan for 2011/12 be agreed including:**
  - (i) running the Best Bar None Scheme in Bromley and Beckenham;**
  - (ii) attending Pub Watch meetings;**
  - (iii) undertaking Proactive Visits to licensed premises;**
  - (iv) implementing the provisions of the Police Reform and Social Responsibility Bill; and**
  - (v) reviewing Licence fees.**

**129 LICENSING SUB-COMMITTEE: SCHEDULE OF MEETINGS  
FROM JUNE TO DECEMBER 2011 AND OTHER MATTERS  
Report RES11026**

The Committee was requested to consider the proposed schedule of meetings of the Licensing Sub-Committee for the period June to December 2011. Following the Annual meeting of Council on 18<sup>th</sup> May 2011 an amended rota was tabled taking into account the new membership of the General Purposes and Licensing Committee.

New Members were informed that meetings started at 10.00 am and 2.00 pm and Members sitting on Committees would be informed if hearings did not run into the afternoon session.

The Chairman drew Members' attention to a number of instances where the Councillor listed was not able to attend that hearing due to other commitments. He encouraged Members to contact the Democratic Services Officer if they could make up the numbers.

A question was raised as to whether the procedures at Licensing Sub-Committees could be made more informal. The Council's Legal Adviser said that whilst the Sub-Committee's decisions might not be quasi judicial, the process by which the decisions were reached was and the Committee was advised that the more formal approach of the Sub-Committee was designed to provide certainty and clarity to the method by which evidence was considered and decisions made so as to reduce the risk of legal challenge. The Head of Public Safety, Occupational Safety and Licensing agreed and advised that the legislation gave guidance on the structure and approach of

Licensing Sub-Committee and he felt that the Council had struck the correct balance.

The Committee was advised of an instance when a member of the General Purposes and Licensing Committee had been removed from a meeting of the Licensing Sub-Committee without his agreement because the officers were concerned that the agenda contained an application for a premises in his wife's ward. He disagreed with the decision of the officers and objected to not being allowed to make a judgement of his own. He commented that in the past Councillors had made judgments as to whether to sit on a Sub-Committee or not and this should continue. The Council's Legal Adviser said that once Members were appointed to a Sub-Committee their replacement was principally a matter for them subject to the need for them to comply with the Code of Conduct and to have regard to any advice provided by the Monitoring Officer. He stressed the need for both officers and Councillors to work together to ensure that Licensing Sub-Committees remained quorate and that any circumstances that might involve Members with potential prejudicial interests were considered to mitigate the risks of subsequent legal challenges.

**RESOLVED that:**

**(a) that, subject to any changes being made as necessary by the Director of Resources with the agreement of the Members concerned, the schedule of meetings of the Licensing Sub-Committee for June to December 2011 be agreed;**

**(b) the Committee expressed its concern regarding the actions of officers in removing a Councillor from a Licensing Sub-Committee against his expressed wishes; and**

**(c) in future, it be left to Councillors to form their own view as to whether or not they should be part of the Panel of a Licensing Sub-Committee subject to consideration of any advice or guidance from the Monitoring Officer.**

**130 APPOINTMENT OF COUNCIL REPRESENTATIVES TO SERVE ON OUTSIDE BODIES AND PARTNERSHIP BODIES Report RES11016**

The Committee was asked to agree the appointment of Council representatives to serve on Outside Bodies and Partnership Bodies in respect of (a) annual appointments for 2011/12, (b) three-year term appointments, (c) four year appointments co-terminus with the period of the Council. The Committee noted that, subject to any further nominations being received, there were no appointments where there were more nominees than places.

In relation to appointments to Beckenham and Bromley Town Centre Steering Groups, concern was raised about the importance of the area action plans and the fact that decision were being taken out of the relevant Members'

remit. It was advised that the Beckenham Business Association which Councillors, Mellor, Tickner and Wells attended, had a remit similar to the Town Centre Steering Groups.

**RESOLVED that:**

(a) the nominations to outside bodies and partnership bodies as set out below be agreed;

(b) it be noted that the management committee of the Haven Community Home was no longer in existence and therefore the Council was not required to appoint representatives:

(c) in relation to the vacancy for Cray Valley Library and War Memorial Institute (to 8<sup>th</sup> June 2014), that either Councillor Roxy Fawthrop or Councillor Peter Fortune be invited to fill the vacancy (this decision to be decided between them); and

(d) the Renewal and Recreation Policy development and Scrutiny Committee be asked for the view in relation to the ending of the need to appoint Councillors to the Beckenham and Bromley Town Centre Steering Groups.

**131 MINUTES OF THE MEETING OF THE PENSIONS INVESTMENT SUB-COMMITTEE (EXCLUDING EXEMPT MINUTES) HELD ON 10TH FEBRUARY 2011**

**RESOLVED** that the minutes of the meeting of the Pensions Investment Sub-Committee held on 10<sup>th</sup> March 2011 (excluding exempt information) be noted.

**132 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

**133 EXEMPT MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 7TH APRIL 2011**

**RESOLVED** that, subject to an amendment to the second paragraph, the exempt minutes of the General Purposes and Licensing Committee held on 7<sup>th</sup> April March 2011 be noted.

**134 EXEMPT MINUTES OF THE MEETING OF THE PENSIONS INVESTMENT SUB-COMMITTEE HELD ON N 10TH FEBRUARY 2011**

*General Purposes and Licensing Committee*  
*24 May 2011*

**RESOLVED** that the exempt minutes of the meeting of the Pensions Investment Sub-Committee held on 10<sup>th</sup> February 2011 be noted.

The Meeting ended at 7.59 pm

Chairman

# Agenda Item 7

Report No.  
ESD 11093

London Borough of Bromley

PART 1 - PUBLIC

---

**Decision Maker:** GENERAL PURPOSES AND LICENSING

**Date:** 27 July 2011

**Decision Type:** Non-Urgent Non-Executive

**Title:** REVISED PROCEDURE FOR REVIEW HEARINGS - LICENSING ACT 2003

**Contact Officer:** Paul Lehane, Head of Food, Safety & Licensing  
Tel: 020 84216 E-mail: paul.lehane@bromley.gov.uk

**Chief Officer:** Nigel Davies - Director of Environmental Services

**Ward:** All

---

1. Reason for report

To report on improvements made to the 'Review' procedure following comments expressed by Councillor N. Bennett JP after the hearing of an application for Review of the licence at the Golden Lion public house Maple Road SE 20 held on 31 May 2011.

---

2. **RECOMMENDATION(S)**

**Members are asked to note the procedural changes made to the Review procedure subsequent to Cllr N Bennett's comments in relation to the hearing.**

### Corporate Policy

1. Policy Status: Existing policy. Statement of Licesning Policy 2011 - 2014
  2. BBB Priority: Excellent Council. Safer Bromley, Vibrant thriving town centres
- 

### Financial

1. Cost of proposal: No cost
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Public Protection & Safety Portfolio budget
  4. Total current budget for this head: £3.7 m
  5. Source of funding: Existing revenue budget 2011/12
- 

### Staff

1. Number of staff (current and additional): 59
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

The Councils Public Health Team made an application to Review the licence issued to Admiral Taverns (58) Limited 150 Aldersgate Street London EC1A 4EJ for the Golden Lion in Maple Road Penge for failure to promote the licensing objective relating to the Prevention of Public Nuisance.

Councillor N Bennett was the Licensing Sub Committee Chairman and he noted a number of issues of concern relating to the preparation and conduct of the Review. These concerns were passed to Paul Lehane (Head of Food, Safety & Licensing) for a response, having consulted with the Head of Public Health Nuisance Team.

Councillor N Bennett's points and Officer comments are set out below.

The sub-committee was concerned as to why a Review had been launched given the paucity of evidence and the fact that neither the officers who visited the pub nor any local complainants were present. The Review was requested by the Public Health Nuisance Team within Public Protection. There were no police representations and they were not present.

1. No review proceedings should take place without the relevant officers being present to give evidence and answer questions;

#### Comment & Action

Agreed. This is essential. Regrettably because of the legal timescales in which a Review has to be held after it has been submitted the only date available coincided with the Officer being on leave.

In future we will liaise with an applicant to ensure they are available when the hearing is expected to be held. If there is any doubt we would suggest they delay making the application to ensure they are available.

2. No Review proceedings should be instituted except by the Licensing Team and when such a Review is considered all grounds for a possible review should be considered so that evidence from Public Protection, Licensing, Police is gathered, consolidated and reviewed to see if there is a substantial case for a Review; There were no representations by the police nor attendance and therefore there was no opportunity to test claims by the landlady that the police had never visited the premises.

#### Comment & Action

As the law stands the Licensing Team cannot bring a Review themselves. Reviews can be brought by any Responsible Authority, Ward Member or local resident / business.

When a Review application is received the Licensing Team has to advertise the Review by placing public posters in the area of the premises and at the Civic Centre. We also write to all the Responsible Authorities and Ward Councillors to inform them of the Review and invite them to join in with their concerns on any or all of the Licensing Objectives, This consultation lasts 28 days. In this case the Police were advised of the Review but did not seek to join in.

All statements should be checked for accuracy, the dates presented in evidence and the statements were contradictory;

It is suggested that the Head of Licensing should consider and comment on all applications for Review, however it should be noted that there is no provision for Officers to reject an application especially if it is from a Third Party eg Police or a local resident even if the case is weak. Advice can be given and one would hope has been sought prior to the application being submitted.

3. The papers for the hearing were repetitious and resulted in an agenda of over 130 pages. Officers should do a proper analysis and not just photocopy every complaint (which were identical) 19 times and leave the Sub-committee to wade through the papers to see if there was any variance in the appendices. The analysis produced of the complaints on the day should have been available with the original papers;

#### Comment & Action

This would be part of the consideration made by the Head of Licensing. ( See point 3). When Reviews are being initiated by the Public Health Nuisance Team, their Head of Service will actively oversee the case as well.

4. The request for the DPS to lose her licence and the pub to have its entertainment licence removed for 12 months were wholly disproportionate in relation to the evidence at its highest and made the Council seem amateurish; did the Licensing Team review the evidence and the application by the Noise team for such a penalty?

#### Comment & Action

The recommendations made by the Public Health Nuisance Team Officer were all within the remit of the options open to the Council under the Review Powers (Section 52 Licensing Act 2003) and were offered for the Sub Committee to consider.

However on reflection the three proposed conditions did appear to be disproportionate when considered as a whole package.

The Head of Service for the Public Health Nuisance Team will oversee all Review cases to ensure that the proposed options are proportionate.

The Licensing Team have not previously seen it as their role to 'approve' an application for a Review. (see my comments to point 2 above), however this case has made it clear that we do need to have a greater role.

5. It was alleged that verbal warnings had been given. There was no written record. All verbal warnings should be logged;



### Comment & Action

This point has been taken up by the Head of Public Health Nuisance (Noise team) with all Out of Hours Officers, and reinforced with the Licensing Team as well.

6. In the agenda there was a letter from the Licensing Team dated July 8<sup>th</sup> 2010 and one from the Noise Team dated July 12<sup>th</sup> 2010. There appeared to be no coordination between the Noise Team and the Licensing Team and the Council looked amateurish with one arm of the Council acting in isolation and unaware of what another part was doing. The Council is a corporate body and should act as one. It is suggested that the Licensing Team should be the co-ordinating section and that they alone should deal with licenses on regulatory matters;

### Comment & Action

There is close liaison between the Public Health Nuisance Team and the Licensing Team. The Licensing Team do not have the capacity to deal with all matters that arise out of, or in connection with licensed premises. There has to be a degree of joint work between the two teams. Technical aspects of noise such as acoustic measures to attenuate noise and setting noise limiters need the expertise of the Public Health Nuisance Team. Additionally the Public Health Nuisance Team cover the monitoring of noise issues between 5pm and midnight and forms the core resource of the Party Patrol service which operate at weekends. The Licensing Team tries to deal with issues that relate to the Licence conditions but the Public Health Nuisance Team would deal with other type of noise.

Following a meeting with the Head of Public Health Nuisance we will ensure, in all cases involving noise, that there is ongoing liaison and we will establish a single point of contact for communication with a licensed business following complaints.

7. It was clear that when the Noise Team visited the public house they had no idea who the DPS was and reported that they spoke to a 45 year old man who claimed to be the licensee. The licensee is a woman in her 50s. No names were obtained. The Noise team and any other regulatory officers should have the necessary technology and associated database so that they are aware of the name of the DPS and can record at the time what is said;

### Comment & Action

The two officers who attended the Golden Lion in February 2011 were on the Out of Hours Party Patrol. They would not routinely deal with noise from Commercial premises, party patrol most commonly responds to complaints concerning noisy parties. The ability of Out of hours to access details of Licence Holders / DPS details should be improved with the introduction of Notebooks in February 2011 with the capability of remote and Mobile access to our database. Officers have now been provided report record forms to complete for every noise complaint actioned out of hours so they can note the name of the person they speak to .

8. All officers investigating complaints should have camcorders and cameras to provide evidence. The Noise team should have sound measuring equipment. No evidence was provided of decibel limits;

### Comment & Action

Noise measuring equipment is available when required for specialist investigations, but it is not required to establish the existence of a statutory nuisance. Readings may be necessary to

establish that a noise limit set on a noise limiter has been exceeded or to provide measurement of exposure to noise over a longer period e.g. to bar staff or DJ under the Noise at Work Regulations. Officers do have cameras for use when appropriate to record evidence.

The Head of Public Health Nuisance is currently drafting a procedure for serving fixed penalty notices in respects of noise from licensed premises. The service of such penalty notices requires a specific noise level to be obtained and as such out of hours officers will be provided with the appropriate sound measuring equipment for this purpose.

9. When visiting licensed premises the Noise team and other regulatory officers should liaise with the Licensing Team and the police.

Comment & Action

There is close liaison between the Licensing Team Police and Public health Nuisance Team and liaison occurs as appropriate to the nature of the complaint and the premises.

10. At the hearing the landlady was represented by a solicitor and the brewery was separately represented by another legal representative – this greatly extended the hearing. Should the Council require the ‘defendant parties’ to agree one representative?

Comment & Action

This is a difficult issue where, as in this case, the Review is brought against the Premises Licence holder (Admiral Taverns) but the pub is operated by a tenant whose livelihood was potentially threatened by the action. It is rare that 2 parties are represented by different solicitors but in the interests of justice it would seem unfair to prevent the tenant from being represented appropriately. In most cases I would expect the licence holders legal representative to be able to represent both parties.

11. Details of who is appearing either as a representative or a witness should be collected and checked beforehand and written details of names etc supplied to the Chairman at the start of the proceedings. This is done in court and saves time and means that there are not unnecessary discussions to rule witnesses as admissible or inadmissible.

Comment & Action

This is a good idea and we can introduce this practice to all hearings if it is not being done.

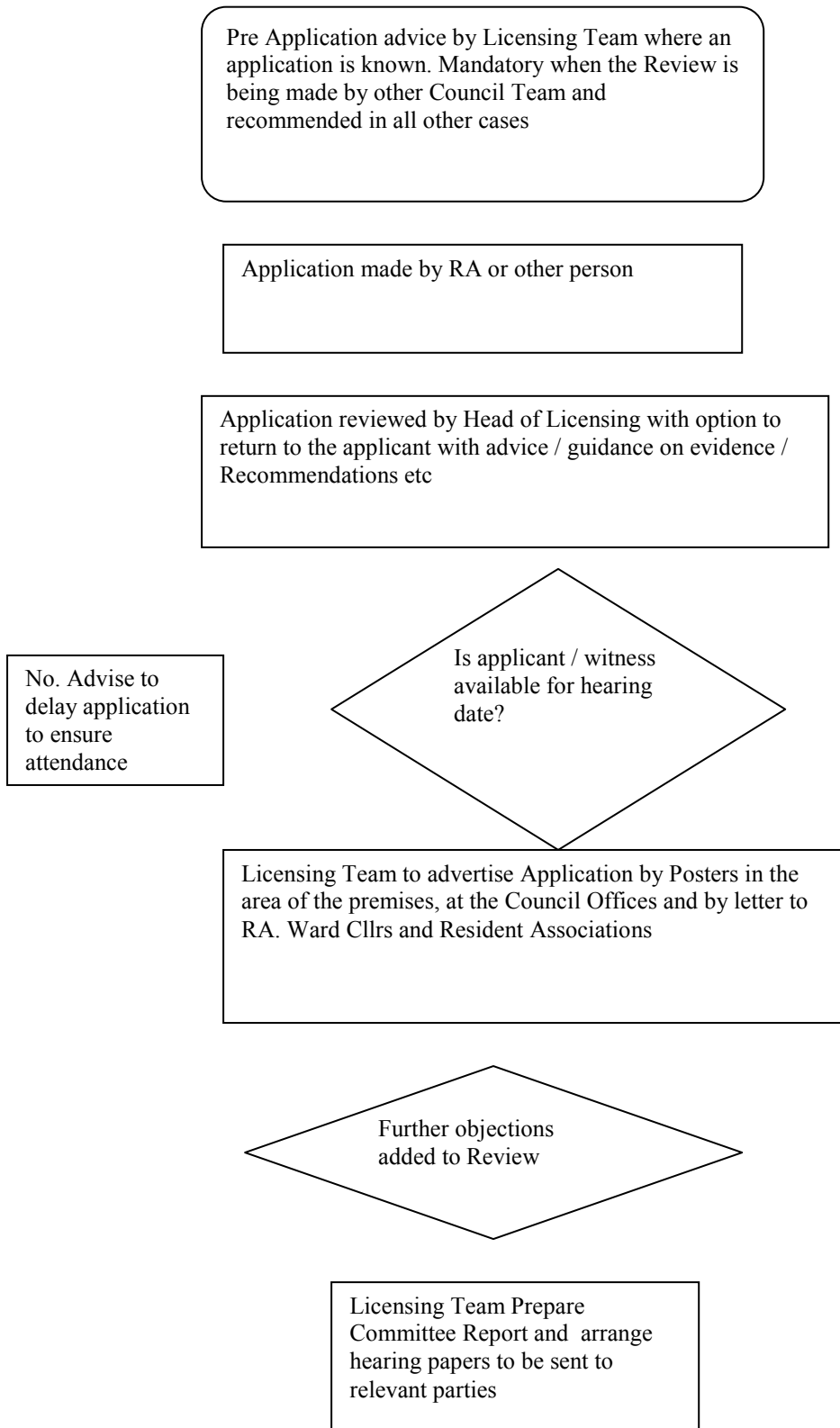
Appendix 1 sets out the flow diagram for the Review process.

#### 4. LEGAL IMPLICATIONS

Hearings by the Licensing Sub Committee are governed by The Licensing Act 2003 (Hearings) Regulations 2005 as amended. The points raised by Councilor N Bennett would support the effective conduct of hearings.

<b>Non-Applicable Sections:</b>	POLICY IMPLICATIONS, FINANCIAL IMPLICATIONS PERSONNEL IMPLICATION
Background Documents: (Access via Contact Officer)	[Title of document and date]

## Appendix 1 Review Application flow chart



On day of hearing. Licensing Officer / Admin note objectors who wish to speak and the names of legal Reps for the Cttee Chairman

Committee hear the application and make decision with legal advice.

Legal Advisor drafts written decision for Cttee Chairman to approve. Passed to Licensing team to produce Outcome letter

Licensing Officer follows up on decision as necessary. Eg issues revised licence responds to appeals

# Agenda Item 8

Report No.  
ESD 11094

London Borough of Bromley

PART 1 - PUBLIC

---

**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** 27 July 2011

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** REPRESENTATIONS TO THE HOME OFFICE ON APPEALS  
FOLLOWING DECISIONS TO REVOKE A LICENCE

**Contact Officer:** Paul Lehane , Head of Food, Safety and Licensing  
Tel: 020 8313 4216 E-mail: paul.lehane@bromley.gov.uk

**Chief Officer:** Nigel Davies - Director of Environmental Services

**Ward:** All

---

1. Reason for report

To seek Members agreement to write to the Home Office to express concerns about the sale of a licensed business whilst subject to an Appeal at the Magistrates court following the Councils decision to revoke the Licence after a 'Review'.

---

2. **RECOMMENDATION(S)**

**Members are asked to endorse the draft letter to the Home Office drawing their attention to the concerns set out in this report.**

### Corporate Policy

1. Policy Status: Existing policy. Statement of Licensing Policy 2011 - 2014
  2. BBB Priority: Excellent Council. Safer Bromley & vibrant thriving Town Centres
- 

### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Public Protection & Safety Portfolio budget
  4. Total current budget for this head: £3.7 m
  5. Source of funding: Existing revenue budget 2011/12
- 

### Staff

1. Number of staff (current and additional): 59
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory requirement.
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 Beckenham Convenience Store 268 High Street Beckenham was subject to two applications to 'Review' the licence under Section 51 Licensing Act 2003.
- 3.2 The first application was submitted by Councillor Wells (Copers Cope Ward) under the Crime and Disorder licensing objective for breach of licence conditions following after hours sales to Licensing Officers. The Review took place on 19 October 2010 and the Licensing Sub Committee decided to suspend the licence for two months and additional conditions were imposed.
- 3.3 The licence holder lodged an appeal at the Magistrates Court against the decision.
- 3.4 Before the Appeal was heard by the Magistrates further sales of alcohol after the permitted hours were obtained by the Licensing Team and this prompted the Metropolitan Police to seek a further Review which was heard on 21 March 2011. The Sub Committee decided to Revoke the licence. Members were informed at the hearing of the owner's intention to sell the business
- 3.5 The appeals were set for a hearing at the Magistrates Court for the 25 July 2011.
- 3.6 However prior to this date an application was made to Transfer the licence to a new Company who had purchased the business.
- 3.7 Despite the decision to Revoke the licence and the outstanding Appeal at the Court, the Council had no legal grounds to oppose the transfer. The Police were the only Responsible Authority who could object, enquiries were undertaken and they were satisfied that the new owners were unrelated to the original licence holder and that there were no exceptional grounds upon which to object. The transfer was granted.
- 3.8 Discussions concerning the Appeal and transfer were held with Cllr Owen as Chairman of GP &L Committee and Cllr Stevens as Chairman of the two Licensing Sub Committees who heard the Review applications and made the decision to Revoke the Licence. Both expressed dissatisfaction that the existing licence holder could undermine the decision of the Council by selling the businesses and transferring the licence in this way.
- 3.9 At the time of writing this report the Appeal outcome is unknown but as it is listed for hearing on 25 July 2011 a verbal update will be given at the Committee meeting.
- 3.10 Members may wish to suggest to the Home Office that the Licensing Act 2003 be amended to prevent a licence holder from transferring, varying a licence or changing the DPS whilst subject to an Appeal.
- 3.11 A draft letter to the Home Office is attached for Members to Consider. It is also suggested that the local MPs be sent a copy.

#### LEGAL IMPLICATIONS

The suggested change to the Licensing Act would preserve the Council's decision until an appeal against the decisions can be determined.

<b>Non-Applicable Sections:</b>	<b>FINANCIAL IMPLICATIONS PERSONNEL IMPLICATIONS POLICY IMPLICATIONS</b>
---------------------------------	--

Background Documents: (Access via Contact Officer)	[Title of document and date]



020 8313 4216  
paul.lehane@bromley.gov.uk

Our Ref: ehts/co/pml

DD MM 2011

James Brokenshire MP  
Parliamentary Under Secretary of State  
Crime Prevention  
House of Commons  
London SW1A 0AA

Dear Mr Brokenshire

Licensing Act 2003 – Sale and transfer of licences whilst subject to Appeal

I am instructed to write to you on behalf of the Councils General Purposes and Licensing Committee in respect of a matter which is of concern to them.

The Councils licensing sub committee has heard two applications to Review a licence for breach of conditions (selling alcohol after the permitted hours). The first application in October 2010 was brought by the Cllr Wells the local Ward Member after complaints and successful test purchasing by the Councils Licensing Officers. The Licensing Sub committee decided to suspend the licence for 2 months and impose additional conditions. This decision was then appealed to Bromley Magistrates Court.

Before the Appeal was determined further test purchasing was undertaken and further sales were made after the permitted hours in breach of the Licence. This prompted the Metropolitan Police to seek a further Review of the Licence which was heard in March 2011. On hearing the application the Licensing Sub committee decided to Revoke the licence. Inevitably this was also subject to an Appeal.

The Council is concerned that having made a decision to Revoke the licence the licence holder was still quite legally able to 'side step' the matter by transferring the licence to another Company. The Police were satisfied that the new licence holder was acceptable and could not object to the transfer.

It is clear that if the Licence holder had withdrawn this appeal, the Councils decision to Revoke would have become effective so the appeal was maintained. However the change of circumstances brought into play by the presence of a 'new owner' was clearly something the Magistrates took into account when determining the Appeal.

The Council takes the view that it was the Licence that was Subject to Review and Revocation not the operator and that it is unhelpful to have their decision undermined by the transfer before it can be heard on appeal. Consequently we suggest that consideration be given to changing the Act so that a licence subject to appeal following a Review cannot be transferred or varied until the appeal is determined.

Yours sincerely

Paul Lehane

Manager Food Safety, Occupational Safety and Licensing  
0208 313 4216  
Mobile 07956680727  
[paul.lehane@bromley.gov.uk](mailto:paul.lehane@bromley.gov.uk)

Copy to Jim Down MP, Bob Stewart MP, Bob Neil MP & Jo Johnson MP

RES11063

London Borough of Bromley

PART 1 - PUBLIC

---

**Decision Maker:**      **General Purposes & Licensing Committee**

**Date:**                      **27<sup>th</sup> July 2011**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **APPOINTMENT OF COUNCIL REPRESENTATIVES TO SERVE  
ON OUTSIDE BODIES AND PARTNERSHIP BODIES**

**Contact Officer:**      Lauren Wallis, Democratic Services Officer  
Tel: 020 8461 7594    E-mail: lauren.wallis@bromley.gov.uk

**Chief Officer:**              Mark Bowen, Director of Resources

**Ward:**                              N/A

---

1.    Reason for report

- 1.1    On 24<sup>th</sup> May 2011, the Committee considered a report that requested the agreement of the appointment of Council representatives to serve on Outside Bodies and Partnership Bodies in respect of (a) annual appointments for 2011/12, (b) three-year term appointments, and (c) four-year term appointments co-terminus with the period of the Council.
- 1.2    Further to the above meeting the Committee is asked to consider a number of issues that have arisen since.

---

2.    **RECOMMENDATION(S)**

**The Committee is recommended to -**

- (1) Note that there is no further need to appoint a representative to Kent Association for the Blind.**
- (2) Appoint Councillor Robert Evans (representative) and Councillor Diane Smith (deputy) to the Mental Health Joint Board.**
- (3) Note the latest position with regard to the Cray Valley Library and War Memorial Institute.**

### Corporate Policy

1. Policy Status: Existing policy.
  2. BBB Priority: Excellent Council.
- 

### Financial

1. Cost of proposal: No cost
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £344,054 (2011/12)
  5. Source of funding: Existing revenue budgets
- 

### Staff

1. Number of staff (current and additional): There are 10 posts (9.22 full time equivalent posts) in the Democratic Services team.
  2. If from existing staff resources, number of staff hours: Liaison with outside bodies about Council appointments forms a small proportion of one post within the Democratic Services Team.
- 

### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is not applicable. The report does not require an Executive Decision.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 Since the meeting of the Committee on 24<sup>th</sup> May 2011 two anomalies in the agreed list have been brought to officer's attention.
- 3.2 Kent Association for the Blind, to which Councillor Roger Charsley was appointed, have confirmed that earlier this year KAB's Board of Trustees took the decision to no longer have Council representatives at Board meetings. They did this because of the increasing incidence of potential conflicts of interest, but with much regret because the Association has always enjoyed an excellent and, they hope, mutually beneficial relationship with Councillors. Therefore the Committee is advised that the appointment of Council representatives no longer needs to be made to the Kent Association for the Blind. Councillor Charsley has been emailed and apprised of the situation.
- 3.3 In May 2011, the Committee appointed Councillor Catherine Rideout (representative) and Councillor Robert Evans (deputy) to the Mental Health Joint Board. Councillor Catherine Rideout has since advised that she does not wish to continue as the Council's representative. Therefore the Committee is asked to appoint Councillor Robert Evans (representative) and Councillor Diane Smith (deputy) to the Mental Health Joint Board.
- 3.4 Further to the meeting of the Committee held on 24<sup>th</sup> May 2011, in relation to the vacancy for Cray Valley Library and War Memorial Institute (to 8th June 2014), Councillor Roxy Fawthrop was emailed and was invited to fill the vacancy. Any further progress will be reported at the meeting.

<b>Non-Applicable Sections:</b>	Policy Implications, Financial Implications, Legal Implications, Personnel Implications
Background Documents: (Access via Contact Officer)	None

This page is left intentionally blank

Report No.  
RES11036

London Borough of Bromley

PART 1 - PUBLIC

---

**Decision Maker:**      **General Purposes and Licensing Committee**

**Date:**                      **27<sup>th</sup> July 2011**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **REFERENCE FROM THE PENSIONS INVESTMENT SUB COMMITTEE**

**Contact Officer:**      Keith Pringle, Democratic Services Officer  
Tel: 020 8313 4508    E-mail: keith.pringle@bromley.gov.uk

**Chief Officer:**              Mark Bowen, Director of Resources

**Ward:**                      N/A

---

1.    Reason for report

1.1   This report highlights a reference from the Pensions Investment Sub Committee made at their meeting on 10<sup>th</sup> May 2011 (see paragraph 3.3 below). The Sub-Committee considered a report on changes that would have an impact on the pension fund, and requested that this Committee, or Executive and Resources PDS Committee, as appropriate, consider the overall impact on the pension scheme of any high earning staff wishing to take early retirement.

---

2.    **RECOMMENDATION**

2.1   **The Committee is asked to consider the reference and to indicate how it wishes to take the matter forward.**

### Corporate Policy

1. Policy Status: N/A.
  2. BBB Priority: Excellent Council.
- 

### Financial

1. Cost of proposal: No cost . See attached reference report.
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £344,054
  5. Source of funding: Existing 2011/12 budget
- 

### Staff

1. Number of staff (current and additional): There are 10 posts (9.22 fte) in the Democratic Services Team
  2. If from existing staff resources, number of staff hours: Production of a report such as this can take up to a few hours
- 

### Legal

1. Legal Requirement: No statutory requirement or Government guidance.
  2. Call-in: Call-in is not applicable.
- 

### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): This report is intended primarily for the benefit of General Purposes and Licensing Committee Members.
- 

### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A



### 3. COMMENTARY

- 3.1 At the Pensions Investment Sub Committee meeting on 10<sup>th</sup> May 2011 Members considered a general update report which included a summary of key changes arising from the Hutton Commission and their impact on the Council's Pension Fund.
- 3.2 During discussion Members considered possible affects that the proposed changes might have for younger staff and for both lower and higher paid staff. For the latter it was "*suggested that Human Resources consult confidentially with high earning staff so that an overall position on early retirement could be obtained which could affect succession planning*".
- 3.3 The resolution to the minute of discussion stated that:
- "(1) the report be noted; and*
- (2) the General Purposes and Licensing Committee or the Executive and Resources PDS Committee, as appropriate, consider the overall impact of any high earning staff wishing to take early retirement."*
- 3.4 The relevant minute from the meeting is attached at **Appendix A** and the general update report is at **Appendix B**. Members are asked to consider how they wish to take the reference forward.

#### Comments from the Assistant Chief Executive (Human Resources) and the Pensions Monitoring Officer

- 3.5 In commenting on the reference, the Assistant Chief Executive (Human Resources) has referred to the proposed pension scheme changes giving rise to industrial action and national coordinated strikes. Within the next five years there are 375 employees due to reach age 60 and 214 employees due to reach age 65.
- 3.6 The Pensions Monitoring Officer has also commented. She explained that numbers of potential opt outs are not available and the number who would opt out when contributions rise is not known. At present it was anecdotal evidence from employees in saying they would opt out due to pay freezes, higher contributions etc. There have been a few opt outs recently - some saying that they would opt in again when their financial position improves. There have been no firm proposals from the Government on contribution rates other than various policy discussion papers. However, at the Local Government Association (LGA) Conference on 28th June, the Prime Minister acknowledged that the Local Government Pension Scheme was different from other public sector pension schemes as it is a funded scheme and consequently there would be more in-depth discussion with the local government unions and the TUC about taking this into account.

<b>Non-Applicable Sections:</b>	Policy, Financial, Legal and Personnel
Background Documents: (Access via Contact Officer)	Report RES11009 to Pensions Investment Sub-Committee, 10 <sup>th</sup> May 2011 entitled "General Update".

Relevant extract from the minutes of the Pensions Investment Sub Committee meeting held on 10<sup>th</sup> May 2011

**42. GENERAL UPDATE  
Report RES11009**

A general update was provided on changes that will impact on the Pension Fund and Council finances including: (1) those arising from the commission headed by John Hutton into public sector pensions; (2) plans to change the state pension scheme; and (3) the introduction of legislation to restrict pension tax relief for individuals.

Concerning the Hutton recommendations and introduction – possibly this summer - of legislation to implement them, Councillor Stephen Wells enquired whether sufficient detail would be available to make budgetary decisions. The Director of Finance indicated that costs of the proposals would be known by the end of the summer and budgeted for 2012/13.

Councillor Wells was concerned that staff could opt out of the Local Government Pension Scheme particularly at the lower end of salary scales; a scenario was also suggested where a number of high earning staff might wish to retire early. Councillor Wells asked whether it was possible to predict the impact of proposals for staff. The Director of Finance indicated that any fall-out was unknown; in the longer term if sufficient pension savers were lost it would not be advisable to opt for high risks and the viability of the fund could be affected.

The Vice-Chairman suggested there might be a temptation for younger people not to save for a pension preferring instead to have the money now. To help prevent lower paid staff opting out of the Scheme the Chairman felt that it was necessary to emphasise contributions by the employer; it was also necessary to advise young people on the relevance of saving for a pension. Councillor Grainger felt that a defined contribution scheme was easier to “sell” to younger people. Councillor Grainger also suggested that Human Resources consult confidentially with high earning staff so that an overall position on early retirement could be obtained which could affect succession planning. This was agreed and it was **RESOLVED that:**

**(1) the report be noted; and**

**(2) the General Purposes and Licensing Committee or the Executive and Resources PDS Committee, as appropriate, consider the overall impact of any high earning staff wishing to take early retirement.**

PART 1 - PUBLIC

---

**Decision Maker:** Pensions Investment Sub-Committee

**Date:** 10th May 2011

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** GENERAL UPDATE

**Contact Officer:** Peter Turner, Finance Director,  
Tel: 020 8313 4668 E-mail: peter.turner@bromley.gov.uk

**Chief Officer:** Director of Resources

**Ward:** All

---

1. Reason for report

This report provides a general update to Members on changes that will impact on the Pension Fund.

---

2. RECOMMENDATION

2.1 The Sub-Committee is asked to note the report.

## Corporate Policy

1. Policy Status: Existing policy. The Council's Pension Fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations 2007, for the purpose of providing pension benefits for its employees. These regulations allow local authorities to use all the established categories of investments, e.g. equities, bonds, property etc, and to appoint external investment managers who are required to use a wide variety of investments and to comply with certain specific limits.
  2. BBB Priority: Excellent Council.
- 

## Financial

1. Cost of proposal: No cost
  2. Ongoing costs: Recurring cost. Total administration costs estimated at £2.5m (includes fund manager/actuary fees, Liberata charge and officer time)
  3. Budget head/performance centre: Pension Fund
  4. Total current budget for this head: £31.6m expenditure (pensions, lump sums, etc); £40.3m income (contributions, investment income, etc); £489.7m total fund value at 31st March 2011)
  5. Source of funding: Contributions to Pension Fund
- 

## Staff

1. Number of staff (current and additional): 0.6 FTE
  2. If from existing staff resources, number of staff hours: c 21 hours per week
- 

## Legal

1. Legal Requirement: Statutory requirement. Local Government Pension Scheme (LGPS) Regulations 2007
  2. Call-in: Call-in is not applicable.
- 

## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 5,246 current employees; 4,522 pensioners; 3,859 deferred pensioners
- 

## Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

#### 3.1 Independent Public Services Pension Commission

3.1.1 Ex-Labour Cabinet minister John Hutton was appointed by the coalition Government to head a commission into public sector pensions with the aim of providing full proposals in time for the 2011 Budget.

3.1.2 A summary of the key changes arising from his proposals is shown below:

- (a) Final salary pension scheme to be replaced by career average scheme but existing accrued pension rights to date to be honoured (thereafter move to average salary for the remaining years only in new scheme);
- (b) Normal pension age to be linked to state pension age (state pension age is set to rise to 66 by 2020);
- (c) If the employer contribution exceeds a set ceiling (to be determined), then there should be a review of costs, which could include the option to increase employee contributions or alternatively a review of the whole scheme;
- (d) New changes will be introduced before the end of the current Parliament.

Further details are available in the Barnett-Waddingham link below:

<http://www.barnett-waddingham.co.uk/public-sector-pensions/publications/>

3.1.3 Initial suggestions from the Department for Communities and Local Government (DCLG) of possible options for increases in the employee contributions to the scheme include:

Band	Salary	Current rate	2012/13	2013/14	2014/15
1 to 4	Up to £24,000	5.5% to 6.5%	5.5% to 6.5%	5.5% to 6.5%	5.5% to 6.5%
5	£24,001 to £31,500	6.5%	7.8%	9.1%	9.7%
6	£31,501 to £42,000	6.8%	8.5%	10.2%	11.0%
7	£42,001 to £75,000	7.2%	9.5%	11.8%	13.0%
8	£75,001 to £100,000	7.5%	10.1%	12.7%	14.0%
9	£100,001 to 150,000	7.5%	10.3%	13.1%	14.5%
10	£150,000 +	7.5%	10.5%	13.5%	15.0%

Further details are available in the website link below:

<http://www.lge.gov.uk/lge/aio/10150853>

3.1.4 The indicative changes from DCLG would increase employee contributions for staff earning more than £24k per annum. If, as suggested, the changes are phased over 3 years from 2012/13 to 2014/15, potential full year savings to the Council of £1.8m would be achieved by 2014/15. However, it is not clear whether the Government would expect the savings to be reinvested into reducing pension fund deficits.

3.1.5 It is important to note that these changes could lead to reductions in the membership of the public sector pension scheme which could have adverse longer-term consequences on the viability of the pension scheme.

- 3.1.6 The Chancellor, as part of the March Budget, has confirmed that the Government “accepts Hutton’s recommendations as a basis for consultation with public sector workers, unions and others” and agreed that there should be “no cherry-picking on either side”. There is likely to be some delay in the implementation of the changes to allow for consultation and the changes will certainly be implemented before the end of the parliamentary term.
- 3.1.7 The Chancellor’s Budget also refers to merging the operation of National Insurance and Income Tax. In addition there are plans to change the state pension scheme which could be the “beginning of the end” of the contracted-out national insurance rate for defined benefit pension schemes. Under current arrangements, employees pay 1.6% less and employers 3.7% less than the standard rates. From April 2012, these discounts will be cut back. In the longer term, the elimination of the contracted-out rate would result in additional costs of £1.4m per annum for the Council as well as a reduction in take home pay for employees.

### **3.2 Restricting Pensions Tax Relief**

- 3.2.1 Legislation will be introduced through the Finance Bill 2011 to restrict pension tax relief for individuals by reducing the annual allowance from £255,000 to £50,000 (wef April 2011) and the lifetime allowance from £1.8 million to £1.5 million (wef April 2012).
- 3.2.2 The changes are expected to raise £4 billion per annum nationally and affect 100,000 pension savers, 80% of whom have incomes over £100,000.
- 3.2.3 These changes were announced by the current coalition Government in the June 2010 Budget and the revised arrangements supersede the proposals by the previous Labour Government.
- 3.2.4 The annual allowance from 2011/12 will be reduced to £50,000. The key changes include, for example:
- (a) the annual allowance will be linked to the individual’s marginal tax rate (highest rate of tax);
  - (b) any unused allowances can be carried forward for three years;
  - (c) the valuation factor to calculate the value of the defined benefit pension savings will increase from a factor of 10 to 16;
  - (d) inflation-linked increases in expected pensions of deferred members of schemes will not count towards the annual allowance charge.

Further details are available on the HMRC website.

- 3.2.5 The scheme will remain complex with two new options being identified, where a significant tax liability arises for an individual as follows:
- (a) reducing pension benefits entitlement due to the scheme paying the tax charge at the time;
  - (b) rolling up the tax charge liability (including addition of tax interest rate) and deferring payment till benefits are realised – this will effectively reduce the final pension benefits.

A working model of how it would impact on individuals is available on the Barnett Waddingham website:

<http://www.barnett-waddingham.co.uk/public-sector-pensions/restricting-pensions-tax-relief/>

#### **4. POLICY IMPLICATIONS**

4.1 The Council's Pension Fund is a defined benefit scheme operated under the provisions of the Local Government Pension Scheme (LGPS) Regulations 2007, for the purpose of providing pension benefits for its employees. These regulations allow local authorities to use all the established categories of investments, e.g. equities, bonds, property etc, and to appoint external investment managers who are required to use a wide variety of investments and to comply with certain specific limits.

#### **5. FINANCIAL IMPLICATIONS**

5.1 Details are provided in the main body of the report.

Legal and Personnel Implications	None directly arising from this report
Background Documents: (Access via Contact Officer)	References to websites that give background information are provided in the report.

This page is left intentionally blank



## **PENSIONS INVESTMENT SUB-COMMITTEE**

Minutes of the meeting held at 7.30 pm on 10 May 2011

### **Present:**

Councillor Nicholas Bennett J.P. (Chairman)  
Councillor Paul Lynch (Vice-Chairman)  
Councillors Eric Bosshard, Julian Grainger, Russell Jackson,  
Russell Mellor and Stephen Wells

### **37 APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS**

Following the meeting apologies were provided by Mr Glenn Kelly.

### **38 DECLARATIONS OF INTEREST**

All Members present with the exception of Councillor Russell Jackson declared a personal interest as Members of the Bromley Local Government Pension Scheme.

### **39 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 10TH FEBRUARY 2011 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION**

The minutes were agreed.

### **40 MATTERS OUTSTANDING FROM PREVIOUS MEETINGS**

The two matters from the Committee's previous meeting as highlighted on the agenda had been actioned.

Concerning the Chairman's enquiry on whether there was any level of company ownership above which it was necessary to make a declaration, it was agreed that any declaration be left to each member to make in the light of guidance provided and where there might be any uncertainty it was agreed to err on the side of caution and make a declaration.

### **41 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

There were no questions.

## **42 GENERAL UPDATE**

### **Report RES11009**

A general update was provided on changes that will impact on the Pension Fund and Council finances including: (1) those arising from the commission headed by John Hutton into public sector pensions; (2) plans to change the state pension scheme; and (3) the introduction of legislation to restrict pension tax relief for individuals.

Concerning the Hutton recommendations and introduction – possibly this summer - of legislation to implement them, Councillor Stephen Wells enquired whether sufficient detail would be available to make budgetary decisions. The Director of Finance indicated that costs of the proposals would be known by the end of the summer and budgeted for 2012/13.

Councillor Wells was concerned that staff could opt out of the Local Government Pension Scheme particularly at the lower end of salary scales; a scenario was also suggested where a number of high earning staff might wish to retire early. Councillor Wells asked whether it was possible to predict the impact of proposals for staff. The Director of Finance indicated that any fall-out was unknown; in the longer term if sufficient pension savers were lost it would not be advisable to opt for high risks and the viability of the fund could be affected.

The Vice-Chairman suggested there might be a temptation for younger people not to save for a pension preferring instead to have the money now. To help prevent lower paid staff opting out of the Scheme the Chairman felt that it was necessary to emphasise contributions by the employer; it was also necessary to advise young people on the relevance of saving for a pension. Councillor Grainger felt that a defined contribution scheme was easier to “sell” to younger people. Councillor Grainger also suggested that Human Resources consult confidentially with high earning staff so that an overall position on early retirement could be obtained which could affect succession planning. This was agreed and it was **RESOLVED that:**

- (1) the report be noted; and**
- (2) the General Purposes and Licensing Committee or the Executive and Resources PDS Committee, as appropriate, consider the overall impact of any high earning staff wishing to take early retirement.**

## **43 PENSION FUND PERFORMANCE**

### **Report RES11008**

Members were apprised of the investment performance of Bromley’s Pension Fund for 2010/11 along with information on general financial and membership trends of the Fund and summarised information on early retirements.

In 2010/11 the fund value rose to £489.7m as at 31st March 2011 and at 25<sup>th</sup> April 2011 the value stood at £492.3m.

Medium and long-term returns had been good with Bromley's Fund ranked in the 2<sup>nd</sup> percentile over the last 3 years, in the 1<sup>st</sup> percentile over 5 years and in the 5<sup>th</sup> percentile over 10 years. In 2010/11 to date, Bromley's Fund had achieved rankings of 94%, 6% and 8% respectively in the June, September and December quarters; the rankings for the March 2011 quarter were not yet available and would be reported to the Sub Committee's next meeting.

A summary of performance by the two fund managers in 2010/11 was provided although local authority averages for the March 2011 quarter were not yet known and would be reported to the Sub Committee's next meeting. Baillie Gifford returned 1.3% in the March quarter (0.3% below benchmark) and achieved a cumulative return of 10.7% between 1<sup>st</sup> April 2010 and 31<sup>st</sup> March 2011 (2.3% above benchmark). The WM Company attributed their relative underperformance in the latest quarter to stock selection, primarily in the European equities sector. Fidelity returned 1.2% in the March quarter (0.2% below benchmark) and achieved a cumulative return of 7.1% in the year (0.7% below benchmark). In the latest quarter, the WM Company attributed their relative outperformance to stock selection, primarily in Global equities.

Comparative returns were provided over 1, 3, 5 and 10 years for both Baillie Gifford and Fidelity for periods ending 31st March 2011 and 31<sup>st</sup> March 2010. Baillie Gifford's 1, 5 and 10-year returns to March 2011 (10.7%, 6.8% and 7.3% respectively) were better than those of Fidelity (7.1%, 6.6% and 6.5% respectively) although Fidelity's 3-year return (9.9%) was marginally better than that of Baillie Gifford (9.7%). Performance since the revised benchmarks were adopted in 2006 had been particularly strong.

Comments from Baillie Gifford on their performance in short-term, medium-term and long-term periods ended 31<sup>st</sup> March 2011 were appended to Report RES11008 as was an extract from the Executive Summary of Fidelity's Quarterly Investment Review. Comments from Fidelity were also reported.

A summary was provided of early retirements by employees in Bromley's Fund during the current and previous years. In 2010/11, there was one ill-health retirement at £94k with other retirements totalling £291k.

Details were also provided of the provisional outturn for the 2010/11 Pension Fund Revenue Account along with fund membership numbers - a provisional net surplus of £9.6m was achieved in the year with total membership numbers rising by 247.

In discussion Councillor Grainger highlighted that the quarterly Fund values were broadly in line with the FTSE 100 and therefore moving in step with expectations.

Councillor Grainger also enquired whether it was worth the Sub Committee considering Absolute Return Funds at its next meeting and it was agreed to have a report on the Funds.

**RESOLVED that:**

- (1) the report be noted; and**
- (2) a report be provided for the Sub Committee's next meeting on Absolute Return Funds.**

**44 PENSION FUND 2010/11 AUDIT PLAN**

**Report RES11010**

Members noted the Pension Fund Audit Plan for 2010/11 prepared by the auditor, PricewaterhouseCoopers LLP.

**RESOLVED that the Pension Fund Audit Plan for 2010/11 be noted.**

**45 INVESTMENT IN PROPERTY**

**Report RES11011**

Following the Sub Committee's consideration of property investment on 8<sup>th</sup> September 2010 Members considered a further report.

This included advice that Barnett Waddingham felt that they could not add to their previous comments on property investment and were happy to reiterate concerns. However Baillie Gifford, Fidelity and the WM Company had all provided views which were reported to Members.

The Officer view on property investment was also reported which indicated that it would not be appropriate to hold individual properties directly given the low number of physical assets and liability risks; it was felt that property investment would require the use of some type of pooled vehicle.

Officers were of the view that the fund's performance returns in the short, medium and long-term had been sufficiently strong to more than justify the existing fund management strategy and it was felt that a change was not required at this time.

In discussion Councillor Grainger referred to reducing the 12 year deficit recovery period through yields higher than a 6.9% return. Councillor Grainger referred to property types such as shopping outlets where risk could be spread. Examples quoted by Councillor Grainger included a Business Park offered at £23m providing a yield at 8% and another Business Park offered at £23.3m providing a net initial yield at 9.7%. A further example comprised a

Business Park offered at £13m with an initial yield of 12.5%. Councillor Grainger suggested that further working examples could be sought of such investments yielding higher than 7% along with an assessment of their applicability for the fund.

Noting that Bromley's Pension Fund was comparatively small, the Chairman enquired of any percentage that could be invested in property and the difference it would make. On income from property, Councillor Grainger suggested a need to look at the quality of tenants and the identification of a good credit check. Members were also advised that there were not many local authorities who were prepared to invest much in property. The Director of Finance suggested that the matter be kept open and it would first be necessary to look at investment type vehicles and liquidity. Councillor Bosshard felt that if rents were not secure there would be risks. Councillor Grainger commented that rents were often fixed for five year periods and suggested that if rental payment was maintained with business park type investments, liquidity would not be important. Councillor Russell Jackson felt that business park and shopping centre assets could get into terminal decline and liquidity would then be an issue. The Vice Chairman asked why the business park examples were being sold. Councillor Wells referred to a Business Park at Cambridgeshire where there seemed to be a voidage level of some 40-45% and suggested that there could be more fluctuation with this type of investment than wanted. Councillor Grainger suggested an occasional officer visit to one of the Business Park examples he quoted earlier.

The Chairman remained sceptical of property investment, referring to comments of the WM Company and Baillie Gifford as outlined in report RES11011. He would be unhappy to agree to do too much at his stage but felt that a watching brief should be maintained. Councillor Grainger suggested a need for some workable examples and criteria in order to strike with any investment at an appropriate time. The Chairman agreed that a criterion was necessary on matters such as flexibility, liquidity and spread of risk. Councillor Wells felt that it would also be interesting to find out what other funds used as criteria. Councillor Russell Mellor felt that any future property investment should be at the high end and agreed that liquidity was an issue unlike investment in equities.

In concluding debate the Sub-Committee agreed that a further report should be provided in six months (November 2011) which would include information on criteria used by other funds, costs involved, liquidity matters and practical examples of property investment.

**RESOLVED that:**

**(1) the report be noted;**

**(2) a watching brief continue to be taken on investment in property; and**

**(3) a further report on Property investment be provided for the Sub Committee's meeting on 2<sup>nd</sup> November 2011 including information on**

**flexibility, liquidity, spread of risk, criteria used by other funds, costs and practical examples of property investment.**

**46 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND FREEDOM OF INFORMATION ACT 2000**

**47 CONFIRMATION OF EXEMPT MINUTES - 10TH FEBRUARY 2011**

The Part 2 minutes were agreed.

**48 PENSION FUND - INVESTMENT REPORT**

Quarterly reports (to 31<sup>st</sup> March 2011) from Fidelity and Baillie Gifford had been circulated prior to the meeting and two representatives from Baillie Gifford attended the meeting to present their report and answer questions from Members.

**49 PENSION FUND ADMINISTRATION COSTS**

Following a request from the Chairman at the Sub Committee's previous meeting, a Part 2 report was provided on Pension Fund administration costs.

In concluding the meeting the Chairman thanked Members of the Sub Committee and officers for their work during the year.

The Meeting ended at 9.44 pm

Chairman

## AUDIT SUB-COMMITTEE

Minutes of the meeting held at 7.30 pm on 7 June 2011

### Present:

Councillor Neil Reddin FCCA (Chairman)  
Councillor Simon Fawthrop (Vice-Chairman)  
Councillors Nicholas Bennett J.P., Ruth Bennett,  
Will Harmer and Stephen Wells

### Also Present:

Councillor Peter Fookes

## 50 DECLARATIONS OF INTEREST

Councillor Ruth Bennett declared an interest as a governor of the Princes Plain Primary School and as an employee of a local Member of Parliament.

Councillor Nicholas Bennett, Neil Reddin and Councillor Stephen Wells declared an interest as members of the Local Government Pension Scheme.

Councillor Simon Fawthrop declared a personal interest in relation to Disaster Recovery as an employee of BT and that he had a child who attended a school in the Borough.

Councillor Reddin declared an interest as a non LEA governor of St. Olave's and St. Saviour's Grammar School, his wife was a governor of Hayes Primary School and his son would shortly be attending Warren Road Primary School.

## 51 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

An apology for absence was received from Councillor Reg Adams.

## 52 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 16TH MARCH 2011 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION

**RESOLVED** that the minutes (excluding those containing exempt information) of the meeting held on 16<sup>th</sup> March 2011 be confirmed.

## 53 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

**54            MATTERS OUTSTANDING FROM THE LAST MEETING Report  
LDCS11041**

Councillors were advised of matters outstanding from previous meetings and the progress made.

It was noted that items on Appendix 1 of the report marked “complete” would be removed from the report unless Members stated a reason for that item to remain.

**RESOLVED that progress with matters outstanding from previous meetings be noted.**

**55            INTERNAL AUDIT PROGRESS REPORT Report CEO1174**

The report advised of the recent audit activity across the Council and provided updates on matters arising from the last meeting of the Sub-Committee held on 16<sup>th</sup> March 2011.

(a)    Value for Money (VfM)

The Sub-Committee was informed that the control matrix for VfM arrangements had been refined and a list of audits where this methodology could be adopted in the 2011/12 audit plan had also been identified.

(b)    Out of Hours Security

The Chief Internal Auditor advised that, although security had been lax in the past, security had been much improved since the introduction of the new security card system. It was still the responsibility of managers to inform the appropriate officer when a member of staff left the employment of the Council. This would enable the security card to be cancelled. The Principal Auditor added that all cards would now be cancelled one month after an individual had left the organisation.

(c)    Housing Benefit Future Proposals

It was noted that the threat to the Greenwich Fraud partnership as a result of Government proposals for an integrated fraud service would have resource implications for the Council. The former Chairman of the Sub-Committee had written to the appropriate Government Minister expressing the Sub-Committee’s concerns. The response received had not addressed those concerns. It was felt that a centralised fraud unit would not have the local knowledge or interest that the current arrangements had.



**RESOLVED that the original letter from the former Chairman of the Audit Sub-Committee commenting on the Government's proposal for a centralised fraud unit together with the response to that letter be circulated to Bromley Members of Parliament.**

- (d) Audit Sub-Committee Terms of Reference and New Government Proposals / Structure of Audit Committees/ Independent Members of the Committee

In relation to the Government's proposal that chairmen of audit committees should be independent of the local public body, the Sub-Committee disagreed and commented that this appeared to ignore the existing democratic overview provided by elected Members and that the Government had misunderstood the role of Councillors. It was acknowledged that there was an argument to have an independent chair of an audit committee as some local authorities were too "cosy". However this was not the case in Bromley. Councillor agreed that independent members on the Audit Sub-Committee would be a reasonable way forward but those members should not become chairmen.

The Chief Internal Auditor advised that the deadline for response to the proposals was 30<sup>th</sup> June 2011 and he asked the Sub-Committee if they were agreeable to him responding on behalf of the Sub-Committee in consultation with the Chairman and Vice-Chairman.

**RESOLVED that the Chief Internal Auditor, in consultation with the Chairman and Vice-Chairman of the Audit Sub-Committee, respond on behalf of the Audit Sub-Committee to the Government's paper regarding audit committees.**

With regard to the proposed terms of reference for the Council's Audit Sub-Committee, the Vice-Chairman suggested that they be kept simple. The Chief Internal Auditor advised that the bullet points listed in paragraph 3.28 of the report were current best practice. Members agreed that there was scope to include some of the best practice information. It was suggested that the Chief Internal Auditor work in consultation with the Chairman and Vice-Chairman to produce terms of reference for the Audit Sub-Committee that would then be submitted to the General Purposes and Licensing Committee for approval and to Council for endorsement.

**RESOLVED that the Chief Internal Auditor, in consultation with the Chairman and Vice-Chairman of the Audit Sub-Committee, produce terms of reference for the Audit Sub-Committee that are simple and include the relevant best practice information that would then be submitted to the General Purposes and Licensing Committee for approval and then onto Council for endorsement.**

- (e) Head of Internal Audit in Public Service Statement from CIPFA

The Chief Internal Auditor advised that the statement included information in relation to the role of the Chief Internal Auditor. Members noted that the Chief Internal Auditor and the Audit Division would also be subject to a peer review.

(f) Appendix A

Members noted that the CCTV item would remain on the report as some of the Priority One recommendations had not yet been implemented. It was suggested that if Priority One recommendations had not been implemented within two meeting cycles of the Audit Sub-Committee (six months) then the responsible officer should attend the next meeting of the Sub-Committee to account for the non-implementation.

In relation to duplicate payments at a primary school, the report advised that the payments would be balanced by the end of May 2011. Officers were asked if this had been achieved and the Deputy Chief Internal Auditor agreed to inform the Sub-Committee of progress.

(g) Appendix C

It was noted that the number of administrative penalties had fallen. Members were advised that such penalties were notoriously difficult to collect and could only be collected when the overpayment had been completely paid.

(h) Appendix E

The Chairman suggested that a value should be put against all risks on the risk register where possible.

**RESOLVED that:**

- (a) **the report be noted; and**
- (b) **the continuing achievements of the counter fraud benefit partnership with Greenwich Council be noted.**

**56 INTERNAL AUDIT ANNUAL REPORT 2010/11 Report CEO1175**

This report was for Member information and was also intended to assist the Council in meeting the accountability requirements of the Accounts and Audit Regulations. Part of the overall arrangements required the Chief Executive and the Leader to sign an annual governance statement. This would be put before Members along side the statutory accounts. Included in the report were highlights of the performance of the Internal Audit function, a summary of the audits undertaken and an opinion on the overall adequacy and effectiveness of the organisation's internal control environment based on this work and the Annual Governance Statement.

**RESOLVED that:**

- (a) **the report be noted; and**
- (b) **the Draft Annual Governance Statement be approved.**

**57 ANNUAL SCHOOLS AUDIT REPORT 2010/11 Report CEO1173**

The report provided a summary of work carried out by the Authority's Internal Audit Team relating to all Primary, Secondary and Special Schools and Colleges for the period April 2010 to March 2011. The Chairman commented that next year's report would be much thinner due to schools converting to academy status.

Following a question regarding the progress of completion of exit audits for schools converting to academy status, the Deputy Chief Internal Auditor replied that good progress had been made and a number had been completed. Members queried Appendix D, titled Secondary School assisted Audits, in particular reference to recommendations made under primary accounting records. Councillor Wells had asked what primary accounting records this related to and officers undertook to analyse this.

**RESOLVED that the report be noted.**

**58 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000**

**59 CONFIRMATION OF THE EXEMPT MINUTES OF THE MEETING OF THE SUB-COMMITTEE HELD ON 16TH MARCH 2011**

**RESOLVED that the exempt minutes of the meeting held on 16<sup>th</sup> March 2011 be confirmed.**

**60 INTERNAL AUDIT FRAUD AND INVESTIGATION PROGRESS REPORT Report CEO1176**

The Sub-Committee considered a report informing Members of recent Internal Audit activity on investigations across the Council and providing an update on matters arising since the last meeting of the Audit Sub-Committee. The report detailed new areas investigated, expended on cases of interest, detailed the cases on the fraud register and provided a further update on the results of the National Fraud Initiative (NFI).

The Meeting ended at 9.57 pm

Chairman



# Agenda Item 14

By virtue of paragraph(s) 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is left intentionally blank

# Agenda Item 15

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is left intentionally blank



# Agenda Item 16

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is left intentionally blank